

UNITED STATES OF AMERICA)	CAUSE NO. 3:04-CR-240-P
	(
vs.)	
	(NOVEMBER 10, 2008
)	DALLAS, TEXAS
HOLY LAND FOUNDATION, ET AL	(9:00 A.M.

STATEMENT OF FACTS

A P P E A R A N C E S

FOR THE DEFENDANT: FREEDMAN, BOYD, HOLLANDER,
(SHUKRI ABU BAKER) GOLDBERG & IVES, P.A.
20 FIRST PLAZA, SUITE 700
ALBUQUERQUE, NEW MEXICO 87102
BY: MS. NANCY HOLLANDER
MS. TERESA DUNCAN

FOR THE DEFENDANT: LAW OFFICE OF JOSHUA L. DRATEL
(MOHAMMAD EL-MEZAIN) 14 WALL STREET, 28TH FLOOR
NEW YORK, NEW YORK 10005
BY: MR. JOSHUA DRATEL
MR. AARON J. MYSLIWIEC

FOR THE DEFENDANT: LAW OFFICE OF MARLO P. CADEDDU
(MUFID ABDULQADER) 3232 MCKINNEY AVENUE, SUITE 700
DALLAS, TEXAS 75204
BY: MS. MARLO P. CADEDDU

FOR THE DEFENDANT: LAW OFFICE OF LINDA MORENO
(GHASSAN ELASHI) P.O. BOX 10985
TAMPA, FLORIDA 33679
BY: MS. LINDA MORENO

JONES DAY
555 CALIFORNIA ST., 26TH FLOOR
SAN FRANCISCO, CA 94104
BY: MR. JOHN D. CLINE.

FOR THE DEFENDANT: WESTFALL, PLATT & CUTRER
(ABDULRAHAM ODEH) ONE SUMMIT AVENUE, SUITE 910
FORT WORTH, TEXAS 76102
BY: MR. GREG WESTFALL

COURT'S LAW CLERK: MS. JENNIFER HELMS
1100 COMMERCE, RM. 1654
DALLAS, TEXAS 75242.

COURT COORDINATOR: MS. BRENDA WEBB
1100 COMMERCE, RM. 1654
DALLAS, TEXAS 75242

OFFICIAL COURT REPORTER: SHAWN M. McROBERTS, RMR, CRR
1100 COMMERCE STREET, RM. 1654
DALLAS, TEXAS 75242
(214) 753-2349

INDEX**Closing Arguments****Closing Arguments**

MR. JONAS

MS. DUNCAN

Page

14

120

1 THE COURT: Good morning.

2 All right. We have made some changes to the charge.
3 Most of them are along the lines that we discussed last
4 Friday. Some changes we didn't accept, so you can tell I
5 think from reading the latest draft of the charge that we gave
6 you Friday compared to the draft that we gave you Thursday.
7 And then we made two changes this morning and those were
8 provided to you, page 9 and 22.

9 And so Mr. Jacks, Mr. Jonas, any objections to the
10 changes?

11 MR. JONAS: No. There is a typo on page 28, and it
12 is Counts 2 through 10. In the body where under the
13 indictment, Defendant Mohammad El-Mezain remains in my
14 version.

15 THE COURT: That is in mine as well. We will take
16 that one out.

17 MR. JONAS: That was it, Your Honor. We don't have
18 any objections.

19 THE COURT: And any from the Defense?

20 MR. DRATEL: Yes, Your Honor. I guess first with
21 respect to page 40, which is I think Count 2.

22 THE COURT: Count 22?

23 MR. DRATEL: Where it talks about the second
24 element.

25 THE COURT: Yes.

1 MR. DRATEL: I thought at the Thursday conference
2 even the Government had agreed that there should be another --
3 that it should be knowingly and willfully participated in the
4 corporations.

5 THE COURT: Yes. And I changed that because the
6 statute -- This tracks the language of the statute, and what
7 it requires is a knowing participation in a willful
8 contribution. So that was correct. That is the way the
9 statute has it.

10 MR. DRATEL: We object, obviously.

11 THE COURT: I understand. Sure.

12 MR. DRATEL: Another one is the consciousness of
13 guilt. I think the change -- Well, first I think that the
14 Government's proposed charge is 30 years old. It has been
15 superseded in the very volume that the Government cited from,
16 so we think the new one that incorporated additional context
17 and language needs to be used instead of one that doesn't,
18 obviously, and that it is not evidence of guilt, it is
19 evidence of consciousness of guilt, and that the first
20 sentence of the instruction suggests otherwise. And I think
21 that is not an accurate statement of the law.

22 And it should also be limited consciousness of guilt
23 evidence, regardless of whether it is a co-conspirator
24 statement or not, it is still -- constitutes of guilt is
25 personal and it should be admissible only against the

1 Defendant who made the statement, and none of that appears in
2 this instruction as it stands right now.

3 And we obviously object to the entire instruction. The
4 consciousness of guilt instruction, we think it is
5 inappropriate in the first place. But if the Court were to
6 give one, those three aspects of it are objectionable.

7 THE COURT: Any other objections?

8 MR. DRATEL: Yes. I object to lack of any
9 collateral estoppel type of instruction with respect to Mr.
10 El-Mezain that do not appear and have been incorporated.

11 And also the First Amendment instruction, the last
12 sentence is not an accurate statement of the law. It makes it
13 seem like the speech itself is the crime, which it is not.
14 The Government's proposed language is an accurate statement of
15 the law, which is very different than the Court's last
16 sentence. The Government's statement essentially is that
17 speech can be used to determine intent. The Court said if the
18 speech is used with the intent to do something, it is not a
19 Defense, and that is not the law. That is an inaccurate
20 statement of the law.

21 So if the Court is going to put something like that in
22 there, we would propose the Government's, which tracks the
23 instruction from *Suleiman* case and goes to *Wisconsin v.*
24 *Mitchell*, the Supreme Court case.

25 THE COURT: Any others?

1 MS. CADEDDU: Well, I just want to reiterate that,
2 Your Honor, because this instruction is something that is
3 critically important for me. That last sentence if you read
4 it, "Stated another way, if the Defendant's speech,
5 expression, or associations were made with the intent to
6 willfully provide goods or services to or for the benefit of
7 Hamas, or to knowingly provide material support or resources
8 to Hamas, as described in the indictment, then the First
9 Amendment would not provide a defense to that conduct."

10 And the conduct we are talking about, the subject of the
11 sentence is speech, and what I am concerned about is that the
12 jury could convict based on speech that is intended to help
13 Hamas, even if there was actually no material support
14 provided.

15 So I would reiterate -- I think this is a very
16 problematic, the last sentence here, and I would reiterate
17 with Mr. Dratel that the proposed language the Government had
18 is much more clear.

19 THE COURT: And those objections are overruled. I
20 think that is a correct application of the law as applies to
21 the facts in this case, which at some point you have to make
22 an application.

23 And then with respect to your collateral estoppel, you
24 submitted three proposals, and the first one I had already
25 denied because it is about evidence pre-1997, and of course

1 that was denied across the board. And then the other two I
2 really think are subsumed in the instructions that are given.
3 Each of those conspiracies -- well, that particular count,
4 which is Count 1, states that each Defendant -- it is a
5 broader statement rather than just Mr. El-Mezain, but that
6 each Defendant joined the conspiracy within the appropriate
7 date.

8 So I think you are covered. Those instructions that you
9 requested are in fact included in maybe slightly different
10 language, but they are included in the charge as is.

11 The objections are overruled, and I propose to read the
12 charge as is, then. Who is going to go first for the Defense?
13 I think the Government, Mr. Jonas, you are opening. And did
14 you say you wanted a warning?

15 MR. JONAS: Your Honor, I think clearly that lunch
16 is going to interrupt mine, so at the end -- I guess when we
17 start lunch, I will ask Your Honor how much time I have, and
18 then ask you for a warning at that point.

19 THE COURT: And who is opening for the Defense?

20 MS. DUNCAN: I am on behalf of Mr. Abu Baker.

21 THE COURT: And do you want a warning, or do you
22 want to keep your own time?

23 MS. DUNCAN: I think I can keep my own time, Your
24 Honor.

25 THE COURT: And who is going second?

1 MR. WESTFALL: I will be, Your Honor.

2 THE COURT: And do you want a warning, or do you
3 want to keep your own time?

4 MR. WESTFALL: May I have a warning when I have used
5 20 minutes?

6 THE COURT: Okay.

7 Next?

8 MS. CADEDDU: That would be me, Your Honor, and I
9 would like the same warning as Mr. Westfall, please--20
10 minutes.

11 THE COURT: And Mr. Dratel?

12 MR. DRATEL: Your Honor, may I defer? I don't think
13 we will get to me obviously today. I want to see how the time
14 goes.

15 THE COURT: Sure. And then Ms. Moreno?

16 MS. MORENO: I will be last.

17 THE COURT: Do you want a warning?

18 MS. MORENO: I probably will, but I would like to
19 let the Court know in the morning.

20 THE COURT: Okay. And I think as we discussed
21 Friday, my practice is to read the charge first, and we will
22 read the charge and then we will begin the arguments.

23 MR. JONAS: I was going to ask between the charge
24 and the arguments if we can take our morning break?

25 THE COURT: I think we will be at the break time.

1 And let me ask counsel to approach the bench.

2 (The following was had at the bench.)

3 THE COURT: We have one juror out this morning. She
4 is sick. She called in. She has a stomach virus, so she is
5 not coming in. She is one of the regular jurors, so I propose
6 to excuse her and move onto the next one.

7 And I am not telling you who it is. I could see it was
8 already coming out.

9 MR. JONAS: It just surprised me that we got this
10 far and at this stage.

11 THE COURT: She reported a stomach virus. That is
12 what she told us, and she is just feeling bad and just can't
13 make it. And so I am proposing to excuse her rather than
14 delaying the trial, and we will just go to the next alternate.

15 I think they are still thinking about it.

16 MR. JONAS: I am not sure what we can say about it.

17 THE COURT: Exactly.

18 MS. HOLLANDER: It is hard to know if we don't know
19 who it is.

20 THE COURT: But that shouldn't enter into it. She
21 is sick, and so it shouldn't matter who the juror is. That is
22 why I don't tell. That is the first question the lawyers ask,
23 but it shouldn't enter into it. It is normal to want to know.

24 MS. HOLLANDER: For the record, the Defense does not
25 consent.

1 THE COURT: Okay. And I am going to go ahead and
2 excuse her. She is not here and she is not coming. And I
3 don't want to delay the trial, so we will go on to the next
4 alternate juror.

5 MR. JONAS: I just request you instruct her not to
6 speak to the media or anyone else.

7 THE COURT: Well, she is not here.

8 MR. JONAS: If somebody can leave her a message or
9 just reach out to her.

10 THE COURT: We can do that until the case is over.
11 After that, she is freed from that. But we will do that. We
12 will get Brenda to call her and not discuss the case with
13 anyone until the case is over.

14 MS. MORENO: I just thought something, Your Honor.
15 Tomorrow with the building closed, I am assuming the cafeteria
16 will not be open, so I would ask the Court, is the Court
17 considering providing lunch for the jurors or something?

18 THE COURT: We found out that the cafeteria across
19 the street and some of the restaurants across the street are
20 going to be open because some of the firms are open. And
21 frankly, I was just going to ask the jury probably tomorrow
22 morning if they wanted -- I ma thinking of just reducing our
23 lunches to one hour, today and tomorrow, and I was just going
24 ask them if they wanted us to bring something in for them or
25 if they wanted to go across the street and grab something.

1 But there is not going to be anything in the building.

2 MR. JONAS: Can I ask a quick question? I think you
3 talked about on Friday. And it is not in the charge, but can
4 I mention to them "If you want to watch a video, just send out
5 a note."

6 THE COURT: Do that. I was going to try to remember
7 to do that, but I will probably forget. I wasn't going to do
8 it until the very end. So if somebody will remind me, I will
9 probably forget, but if you all want to tell them that,
10 certainly feel free.

11 MS. HOLLANDER: The only thing is in terms of
12 Ms. Duncan's time, it will be longer. They are not even
13 times.

14 THE COURT: I understand you are going to divvy that
15 up. And I will just keep up with what everybody takes, and at
16 some point you can ask how much time you have left.

17 MS. DUNCAN: I actually changed my answer. I do
18 want a warning. If you can tell me when I have used an hour.

19 THE COURT: I will put that on there.

20 I think we are ready to go.

21 The juror is Ms. Mougia, third or fourth on the front row
22 as you look at it. That is the lady who is sick. Get ready
23 to see that empty chair.

24 (The following was had at the bench)

25 THE COURT: Go ahead and bring the jury in.

1 (Whereupon, the jury entered the courtroom.)

2 THE COURT: Ladies and gentlemen of the jury, good
3 morning. We are ready to proceed.

4 And the evidence has concluded. Both sides have
5 concluded their evidence, and so we are now ready to get the
6 case to you.

7 I will begin by reading the Court's charge to the jury.
8 It is a lengthy charge. It will probably take me over an hour
9 to read this. You don't make notes. Just listen. This
10 contains the instructions and the law that applies to this
11 case.

12 Once I finish doing that, then you will hear closing
13 arguments. You will hear from the Government, because they
14 have the burden of proof. They will open and then they will
15 close, so you will hear from them first and then you will hear
16 from them second. In between you will hear from one of the
17 Defense attorneys for each of the Defendants. This will play
18 out over the next two days, today and tomorrow. We are going
19 to work tomorrow, by the way.

20 And so then, once that happens, then you will begin your
21 deliberations. It should be late tomorrow. And I will talk
22 to you more about that depending on where we are as far as the
23 time.

24 When we finish the arguments and you retire to
25 deliberate, we will have a copy of this charge for each of you

1 so you will have it there before you. You don't have to
2 remember everything that is in it, because it is lengthy.

3 And, then, of course, we will get all of the exhibits
4 that have been introduced into evidence. We will have those
5 back there for you, and you will have the paper documents.

6 Any audio or videotapes you want to listen to while you
7 are deliberating, we will have to do that here in the
8 courtroom, so just send the note out through the Marshal. We
9 will remind you of that later. Just send the note out through
10 the Marshal, and we will arrange to have it ready and have you
11 back here and let you listen or see that video.

12 (Whereupon, the Court's charge to the jury was read
13 in open court.)

14 THE COURT: That concludes the charge. And as I
15 explained to you earlier, it is a lengthy charge, but you will
16 have a copy. It will make more sense when you have it there
17 before you and can have it.

18 We will take the break at this time. Let's be back at
19 11:00, and then the lawyers will begin their closing arguments
20 at that time.

21 (Whereupon, the jury left the courtroom.)

22 THE COURT: We will be in recess for 20 minutes.
23 Back at 11:00.

24 (Brief recess.)

25 THE COURT: Mr. Jonas?

1 MR. JONAS: Thank you, sir.

2 May it please the Court.

3 Ladies and gentlemen, Defense counsel, Mr. Jacks,
4 Ms. Shapiro.

5 Ladies and gentlemen of the jury, you have heard me say
6 to some witnesses a couple of times that they are almost done.
7 I can now say this to you guys--you are almost done, we are
8 almost done, it is almost in your hands, and I am sure you are
9 anxious to finally get to this case and start your
10 deliberations.

11 Before we do that, the lawyers are going to have one last
12 chance to talk to you. I am going to talk to you for a little
13 bit this morning. I am going to go over the Government's
14 evidence with you. I am not going to go over all of the
15 evidence because we would be here another seven weeks, and no
16 one wants that. I am just going to hit the highlights of the
17 highlights. And Defense counsel, they are going to get to
18 talk to you, and then finally Mr. Jacks is going to get to go
19 last.

20 And I want to start off by thanking you for jury service.
21 We all know when someone gets that notice in the mail for jury
22 duty, everyone's eyes roll. But it really is a very important
23 part of our judiciary system, and it is really amazing, if you
24 think about it.

25 We have been living with the case both sides for a long

1 time. Here we are, we have to take 12 people who know nothing
2 about it and prove our case and convince you that these
3 Defendants are guilty.

4 So I want to thank you for that service and I want to
5 thank you for your patience. I know there has been a lot of
6 sidebars, and you guys just had to sit there while we all
7 jabbered on with the Judge, and you guys were great about it.

8 Now, when Ms. Shapiro came before you, what is now I
9 guess almost two months ago, she asked you to take notes. And
10 when I sit over there I actually try to ignore you guys,
11 because paying attention does us no good. I actually try to
12 pay attention to the witness. But it is hard to ignore you
13 when you are only a couple of feet away from me.

14 I did see you guys taking notes, and I think that is
15 great that is going to help a lot when you are deliberating
16 and you are going through the evidence, some 14 or 15 bins of
17 material that we have admitted in this case.

18 And I am going to ask you just for your patience, if you
19 can take notes, and just jot down the exhibits that I mention
20 during my closing. Again, just because I don't mention an
21 exhibit doesn't mean it is not important. I am just going to
22 try to hit the highlights of the highlights.

23 Now, before I go through the Government's case with you
24 today, there is one thing I want to point out and raise. You
25 have heard a lot of talk about the Israeli-Palestinian

1 conflict in this case, and the Defense have tried to portray
2 the Israelis in a very bad light.

3 And I and the Government, we are not here to defend the
4 government of Israel. We are not here to attack the
5 government of Israel. The government of Israel is not on
6 trial in this case. And we, you, are not here to decide who
7 is right and who is wrong in the Israeli-Palestinian conflict,
8 a conflict that has gone on for hundreds of years.

9 Now, there is no question that there is a need in Gaza
10 and the West Bank. Whether that is the Israelis' fault or
11 someone else's fault is not an issue in this case. This was
12 brought up by the Defense counsel in order to distract you
13 from the real issue, as well as to garner your sympathy for
14 the Defendants in hopes that you would ignore the evidence
15 that we have presented.

16 The issue that you are here to decide is whether the
17 Defendants knowingly and willfully provided support, money, to
18 Hamas. Whether you believe Hamas is right or wrong, whether
19 the Israelis are right or wrong has no place in this
20 courtroom. The bottom line is it is illegal to give money to
21 Hamas. And if you find that the Defendants knowingly and
22 willfully did that, then you must find them guilty.

23 I want to start off by talking about Hamas. If you can
24 remember back to Doctor Levitt's testimony, he testified twice
25 but I am referring to the very first time that he came. He

1 was our first witness. And what he did was he gave what I
2 like to call Hamas 101 course. He basically educated you guys
3 in a very short period of time about this organization, and I
4 want to just kind of review briefly what he told you about
5 them.

6 Doctor Levitt told you that in 1928 a man named Hassan
7 al-Banna in Egypt formed an organization called the Muslim
8 Brotherhood, and that the goal of the Muslim Brotherhood is to
9 create a world run by Islamic or sharia law--that is, law that
10 is not made by a Congress, like what we have here, but law
11 that is based upon religion.

12 Over the years the Muslim Brotherhood grew and sprouted
13 chapters in different parts of the world, including a chapter
14 in Gaza and the West Bank.

15 And if we can pull up Map No. 5.

16 Now, I just want to -- I know you have seen several maps,
17 but just to remind you, this is a map of Israel. Israel is
18 the lighter colored land mass on this map. Gaza is the small
19 little strip to the left, and the West Bank is the
20 kidney-shaped area to the right. Then, of course, you have
21 the other countries surrounding Israel--Egypt to the south,
22 Jordan to the east, and Lebanon and Syria to the north.

23 Now, the Palestinian chapter of the Muslim Brotherhood
24 first was in Gaza, and it started as early as 1948 when Israel
25 first became a country. We know that by the 1980s the

1 Palestinian chapter was run by a name named Ahmed Yassin,
2 Sheikh Yassin. We have heard his name many, many times. The
3 Palestinian branch of the Muslim Brotherhood, like the Muslim
4 Brotherhood itself, wanted to run the country, the world, by
5 Islamic sharia law.

6 Now, in 1967 war broke out in this part of the world
7 between Israel and all of its neighboring countries, and the
8 war lasted for six days and, hence, became known as the Six
9 Day War. As a result of that six-day-war, Israel took over
10 the West Bank and Gaza. Before that the West Bank was part of
11 Jordan and Gaza was part of Egypt, but after that Israel took
12 them over and they became commonly known as the occupied
13 territories.

14 About 20 years later in December 1987 something happened.
15 Israel had been subjected to several terrorist attacks around
16 that time, and an Israeli truck driver ran into a crowd of
17 Palestinians. Some people think it was an accident. Some
18 people think it was on purpose. But for whatever the reason,
19 it caused a spark, an uprising among the Palestinian people
20 who apparently were frustrated with the Israeli occupation.
21 And that uprising became known as the Intifada. This was the
22 first Intifada. This was truly a grassroots uprising. It
23 wasn't initially led by any one organization or one group. It
24 was just the people lashing out.

25 Now, the Palestinian branch of the Muslim Brotherhood

1 decided to take action, and they wanted to get into the fight
2 or risk losing ground to other Palestinian groups, and they
3 quickly reformed themselves as Hamas, also known as the
4 Islamic Resistance Movement, sometimes called just The
5 Movement.

6 Palestinians who were Muslim Brotherhood members became
7 Hamas members. Institutions that were Muslim Brotherhood
8 institutions became Hamas institutions.

9 And unlike what Doctor McDonald the ethnomusicologist,
10 tried to portray, the beginning of the Intifada wasn't just
11 kids throwing rocks at tanks. Hamas, once they were formed,
12 started in pretty quickly with the violent acts--the
13 kidnappings and the killings.

14 Now, shortly after it was formed, about a few months
15 later in August of 1988, Hamas published its charter, in
16 effect its Constitution. And if you remember, I went through
17 that Doctor Levitt. And I am only going to hit just a couple
18 of the articles of the charter right now.

19 If we can just pull up Demonstrative No. 9.

20 Now, this is just the PowerPoint presentation I used with
21 Doctor Levitt, but you are going to have actually three
22 versions of the charter, which is exhibited as Hamas No. 1, 2,
23 and 3. One of those versions is the Arabic version published
24 by the Islamic Association for Palestine in the United States.
25 Another is the English translation published by the IAP. And

1 a third translation version is a Yale University translation
2 that Doctor Levitt said experts commonly rely upon. If you
3 compare the IAP and the Yale version, you will see they are
4 pretty much the same.

5 The charter calls for, if we can go to the next page --
6 And I am not going to go page by page. Don't worry. It calls
7 for the destruction of Israel. And it calls for the
8 destruction of Israel by jihad.

9 Now, Doctor Levitt told you that jihad has two
10 meanings--self-improvement and violence. And to determine
11 which meaning is being used in the charter, you have to look
12 at the context. Or to determine whenever the word jihad is
13 being used, you have to look at the context that the word is
14 being used. And as Doctor Levitt told you, and as the Defense
15 witness Doctor Esposito told you, in the context of the Hamas
16 charter the word jihad means violence. Hamas is looking to
17 destroy the state of Israel through violence.

18 Now Article I believe it is 11 talks about a two-state
19 solution. A two-state solution means two countries--Israel
20 and Palestine and this is something that the world has been
21 striving for for a very long time. Hamas is completely
22 against a two-state solution. What they want is to, as their
23 charter says, to eliminate the state of Israel from the face
24 of the earth. They are not looking just to get Israel out of
25 Gaza and the West Bank. They are looking to get rid of Israel

1 in total. And they are not looking in peace. They are
2 looking to do this by violence.

3 Article 13 says specifically, and I will quote from it,
4 "Initiatives and so-called peaceful solutions and
5 international conferences are in contradiction to the
6 principles of Hamas." No peace, period. Win by violence. It
7 says, "There is no solution for the Palestinian question
8 except through jihad. Initiatives, proposals, conferences are
9 a waste of time."

10 I want to play you a clip. We have seen a lot of videos.
11 I am only going to play a couple of them here, and I want to
12 play one clip just to underscore Hamas' position when it comes
13 to peace and how much they are against it.

14 If we can play HLF Search No. 70, Clip C, this is from
15 the tent video that I questioned Agent Burns about.

16 (Whereupon, HLF Search No. 70, Clip C was played in open
17 court.)

18 MR. JONAS: That says it all right there. The
19 Israelis wanted peace; the Intifada crushed it.

20 Now, Article 15 of the charter calls for Muslims
21 everywhere to commit jihad; not just Muslims in Palestine, but
22 Muslims everywhere in the world. And that includes Muslims in
23 the United States.

24 It also talks about something that Doctor Levitt called,
25 I believe, and I may be mispronouncing this, jihad en mal,

1 which is economic jihad. What that means if you cannot commit
2 jihad yourself, if you cannot go and fight yourself, fund
3 somebody who can. Use your money to support them. And that
4 is something that we are going to see and have seen throughout
5 this case--economic jihad.

6 The charter goes on to call for the education of the
7 masses through schools and propaganda, and we have seen and
8 heard about Hamas running schools, all done to instill the
9 spirit of jihad in the heart of the people.

10 Now, Doctor Levitt talked to you about Hamas having a
11 structure. And if we can put up Demonstrative No. 12, please,
12 this is the triangle that he used to illustrate the structure
13 of Hamas. He talked to you about how Hamas has three wings or
14 three branches--a political, a military, and a social.

15 Now, I want to talk about each wing separately. And the
16 way this is structured is illustrative of the importance of
17 the three wings. The political sits on top of the military
18 and social, and the social acts as the foundation that gives
19 Hamas its strength.

20 I want to talk about each wing separately, and let's
21 start with the military first.

22 The military wing was initially known as the Palestinian
23 Mujahideen. A few years after Hamas was formed, it changed
24 its name to Izz el-Din al-Qassam Brigades. The military
25 wing's function in Hamas is to carry out the violent

1 activities that Hamas is known for--kidnappings of Israeli
2 soldiers, shootings, bombings, rocket attacks, and what Hamas
3 is most famous for, suicide bombings. The military wing also
4 obtains weapons, engages in counterespionage, and looks to
5 ferret out collaborators.

6 Hamas has used men, women, and teenagers to carry out
7 suicide bombings. It will dress them up in Western clothing,
8 or clothing of religious Israelis, in order to blend in and
9 not be suspicious when it is going to commit the act. It
10 doesn't discriminate between military or civilian, men or
11 women, young or old, as a bomber gets on a bus or walks into a
12 restaurant, whoever happens to be there will be their victims.

13 They try to increase the destruction by adding screws and
14 bolts and nails to the explosives so they can increase the
15 carnage. As Doctor Levitt told you, they have sometimes
16 dipped those screws and nuts in chemicals in a form of
17 chemical warfare, but as he told you, they weren't very good
18 at it. They didn't realize that the blast just incinerated
19 those chemicals.

20 They don't discriminate between Israelis and others,
21 including Westerners. Doctor Levitt told you about a bar
22 called Mike's Place, which is located right next to the
23 American embassy in Tel Aviv that is often frequented by
24 Americans, and so it is publicly known as a place Americans
25 and other Westerners go into. And Hamas went into Mike's Place

1 and a suicide bomber blew himself up.

2 The attacks that they commit are terror in every sense of
3 the word; not just in the killing and the carnage itself, but
4 in the indiscriminate nature of that killing. And the fact
5 that attacks happen in everyday settings, it truly terrorizes
6 people to know that the next time they go into a restaurant or
7 get on a bus or walk down the street could be the last time
8 they do any of those everyday acts.

9 Now, I want to show you a picture that Doctor Levitt
10 showed you, Demonstrative No. 13. He told you that this is a
11 scene of an aftermath of a bus bombing. I want to show you
12 another picture, if I can just quickly find it. You recall
13 there has been testimony that -- You will have this. This is
14 HLF Search No. 51. These are pictures taken off the computers
15 of the Holy Land Foundation. They weren't downloaded. They
16 were from internet sites that the employees searched. And
17 this one happens to come from Chicago. And in here, I believe
18 Ms. Shapiro may have pulled it up, is a picture of a very
19 similar scene to that. Actually there are several pictures of
20 scenes similar to that. This is the HLF's own material.

21 Doctor Levitt told you about how when there is a suicide
22 bomber, sometimes after someone blows themselves up and the
23 people are running away from the scene, there will be a second
24 suicide bomber waiting to get those people as well.

25 Now, the military wing of Hamas uses women and children

1 not just to be bombers themselves, but to aid the operations.
2 A couple walking down the street is going to be a lot less
3 suspicious than an individual walking by himself.

4 Hamas takes credit for these terrorist acts by issuing
5 statements or communiques to the press, putting it on their
6 websites and on TV. They would create posters of bombers, and
7 we have seen some of these posters, glorifying the bombers.
8 WE have played the living wills, which are videotapes of the
9 bombers that they made themselves before they died.

10 The reason they do this is because they want to take
11 credit for the act in order to let the Palestinian people know
12 that Hamas is out there fighting for them, winning the battles
13 of ideas with the people, and competing against other
14 Palestinian terrorist groups for the people's support. So
15 Hamas has to let the people know, "Hey, we are the ones that
16 committed this act. Support us. Don't support anyone else.
17 We are sacrificing ourselves on your behalf."

18 The political wing of Hamas sits on top of the military
19 wing and the social wing, but it does not control the
20 day-to-day operations of Hamas. It runs the big picture. It
21 doesn't -- It may authorize an attack, but it is not going to
22 necessarily authorize when and where that attack takes place.

23 It also control it is purse strings, the money, and he
24 who controls the money has the power.

25 The political wing is run by the outside leadership of

1 Hamas. There is an inside and an outside leadership. The
2 inside leadership was run by a man like Sheik Ahmed Yassin.
3 The Outside leadership was run by individuals that I have put
4 up -- I don't think you have seen this quite enough, so I will
5 put I it up one more time, Demonstrative No. 17. You are not
6 going to have the chart in this form when you go back to
7 deliberate, but you will have the pictures of these
8 individuals to remind you who they are. The top three are and
9 were the biggest leaders of Hamas--Sheikh Yassin, who was the
10 spiritual founder and leader, he was on the inside leadership
11 until he was assassinated by the Israelis; You have Khalid
12 Mishal, an outside leader who heads up the Political Bureau
13 today; and Mousa Abu Marzook, who we have heard a lot about
14 who is his deputy, he is No. 2 man in the Political Bureau.
15 Up to 1995 Marzook was No. 1, and then him and Mishal switched
16 places.

17 Then you have leaders, both inside and outside leaders.
18 These aren't all of the Hamas leaders. We chose these
19 particular ones because these are the ones that you have heard
20 testimony about. Some are on the inside in Gaza; some are on
21 the outside.

22 Now, the political bureau also acts like a de facto
23 government, legitimately or otherwise. It has ambassadors, as
24 Doctor Levitt said; not real ambassadors like what we think
25 of, but representatives in other countries--in Iran, Yemen,

1 Sudan. Political leadership gets funding from these other
2 countries as well, solicits funding. And they basically let
3 the inside leadership deal with the day-to-day operations.

4 Now the social wing of Hamas, I want to talk about that
5 for a moment. Prior to becoming Hamas, the Palestinian branch
6 of the Muslim Brotherhood ran some social
7 institutions--Islamic Center of Gaza, Islamic Center of Gaza.
8 These were formed by Sheikh Yassin. But once Hamas was
9 created in 1987, these institutions automatically became Hamas
10 institutions.

11 As time went on, as you heard from Agent Burns and you
12 heard from Avi, Hamas started taking over other social
13 institutions in the West Bank. Within three or four years of
14 Hamas being operated, they controlled a number of what has
15 been called zakat committees. You heard a lot about that. I
16 will talk more about those later.

17 Now, these social institutions through the Hamas military
18 wing ran schools, medical clinics, hospitals, mosques, and
19 libraries. The purpose was to win the hearts and minds of the
20 Palestinian people so that those people could support Hamas.

21 As Doctor Levitt said, and no one is contesting this,
22 there is a need in West Bank and Gaza. It is a very poor area
23 and people need help. And Hamas took full advantage of that
24 need. By providing the services, they were able to get the
25 support of those people.

1 Remember the Hamas charter. It doesn't say anything in
2 there about "Our goal is to make the lives of the Palestinians
3 better." Their goal is to destroy Israel. By providing
4 social services and winning the hearts and minds of the
5 people, that is a means to achieving their goals.

6 The garnering loyalty. Think about it. If someone feeds
7 you, you are going to support them. You are going to do what
8 they need from you. If Hamas needs a safe house to protect an
9 operative, someone who gets food from a Hamas food bank, is
10 going to open up their doors to that operative. If they need
11 a driver with, someone whose kids go to a Hamas school will be
12 a driver for them. Whatever they need the population will
13 give them.

14 Hamas is big on education. As I said, they run
15 kindergartens, schools, and universities. And why is this
16 important? Because young minds are impressionable, and in
17 these schools Hamas can set the curriculum and they can teach
18 these kids about hate and about jihad and about trying to kill
19 the Israelis, all done so that when these kids grow up they
20 can be loyal members of Hamas and create a pool of recruits
21 willing to do their bidding.

22 If we can pull up Demonstrative No. 30, please.

23 This is something that Avi showed you. This is the
24 lifecycle of Hamas. Hamas covers all of these areas. What I
25 call this is womb to the tomb. Starting with kindergarten,

1 summer camps, healthcare, universities, recruitment into the
2 military wing, reimbursing the prisoners and families, up
3 through death--supporting the martyrs' families and other
4 Hamas operatives families.

5 I am not saying that every person who goes to a Hamas
6 school or supported by Hamas becomes a military member or even
7 supports the organization, but that is the aims and the
8 objectives of the social wing.

9 It is important to note that Hamas does not run every
10 charity zakat committee or every charity committee in Gaza and
11 the West Bank. There are hundreds of them. Hamas runs a
12 small percentage, but it is a very effective percentage.

13 There is other organizations that provide aid that aren't
14 terrorist organizations, such as the U.N. or the Red Crescent,
15 as Doctor Hoffman told you. So if people really wanted to
16 help the Palestinian people wanted to do so without supporting
17 Hamas, there are certainly plenty of ways to do it. These
18 Defendants themselves chose just to help Hamas.

19 Now, Doctor Hoffman testified -- If you remember, Bruce
20 Hoffman was one of the experts that we put forth before you.
21 He is a professor at Georgetown University, and he is a
22 terrorism expert. And what he told you is that terrorist
23 groups, successful terrorist groups around the world use
24 charity and social services as a means to win the hearts and
25 minds, and hence the support of the local population. It is a

1 means they use to help achieve their ends and goals, which as
2 he told you is power.

3 He said that terrorism is violence with a purpose, and
4 that purpose is to gain power and to exert control over the
5 local population. And without the support of the local
6 population, the terrorist group is doomed to failure.

7 He called the relationship between the terrorist group
8 and the local people symbiotic. What that means is they help
9 and benefit each other. Such as Hamas provides a social
10 services to the local people, the local population of West
11 Bank and Gaza support Hamas and gives them their strength.

12 Doctor Hoffman told you that terrorist groups that do not
13 provide social services wither and die. Those that do provide
14 them, live on strong.

15 There has opinion a lot of evidence presented by the
16 Defense in this case regarding charity work of the Defendants.
17 I don't want to sound cold and callous, but don't get sucked
18 into that. We all believe and support charity, but the
19 charity that we believe and support does not come with strings
20 attached. And the charity we believe in and support does not
21 strengthen a terrorist group.

22 As Doctor Hoffman said, and this is very important,
23 charity in the hands of a terrorist group is a bad thing. I
24 understand it is a difficult concept for us to grasp when we
25 see pictures of children and we want to help them, children

1 who are needy and we want to help them. But understand, there
2 are other ways of helping these children other than supporting
3 a terrorist group and empowering the terrorist group.

4 The terrorist group, in order to provide these social
5 services, needs money, and that is exactly where these
6 Defendants come in. They provide the money which gives Hamas
7 its social foundation.

8 No one is saying that the Defendants themselves have
9 committed a violent act. No one is saying that the money they
10 raised went directly to purchase a suicide belt or a bomb, or
11 frankly we don't really know, because once the money goes to
12 Gaza and the West Bank we don't know what really happens to
13 it. As Doctor Hoffman told you, there is not always a lot of
14 accountability when it comes to these front organizations.

15 But by supplying money to Hamas' social services, the
16 Defendants are giving the fuel that runs the Hamas engine.
17 And the they are very clever how they do this--under the guise
18 of charity, so that some day if they are here before people
19 just like you, they can just claim, "Hey, we are just helping
20 the poor and the needy," when they are not.

21 As Shukri Baker said in the Philadelphia meeting, the
22 Defendant Shukri Baker, "War is deception." And that is what
23 they are great at is deceiving.

24 Now, why should we care about all of this? Why should
25 you as Americans care about what Hamas does? After all, Hamas

1 hasn't attacked the United States. Well, there are several
2 reasons why we should care.

3 The first is, as Doctor Levitt told you, Hamas views the
4 United States as a -- I am drawing a blank on the word he
5 used. As a cash cow. He called it a cash cow. And we as
6 Americans should not want our country being used as a support
7 system for a terrorist organization, whether that terrorist
8 organization has attacked us or not.

9 Hamas also takes advantages of our laws here. We have
10 very generous laws when it comes to charities. People who
11 make donations to a charity can take a tax deduction.
12 Charities are not required to report any of that money as
13 income. It is all designed to support and encourage people to
14 give money to a charity. And they have taken advantage of
15 those laws, and that is one reason why you should care.

16 The second reason, because although Hamas has not
17 attacked us, Hamas' actions have effectively affected the
18 foreign policy and national security of this country. You
19 have heard Steve Simon testify. He was with the National
20 Security Council back in the 1990s in the Clinton
21 administration. And what he told you is that the United
22 States--and I am not talking about today. I am talking about
23 in the 1990s--that there was a lot of anti-American sentiment
24 in the American world. And a large reason for this is because
25 the United States was viewed as being a strong ally of Israel.

1 And we are a strong ally of Israel. But because of that, we
2 are also viewed as being an enemy of the Palestinian people,
3 and that caused a lot of people in the Arab street to hate us,
4 and that caused those governments of those people to look
5 unfavorably upon us, and we need those governments to be our
6 allies we have to have a strong presence. We have to have a
7 strong presence, and we had to have a strong presence in the
8 Middle East.

9 In order to resolve that issue and to try to lessen this
10 hatred towards the United States, the United States through
11 the Clinton administration, up through today, has worked very
12 hard to resolve peacefully the Israeli-Palestinian conflict.
13 And just as hard as the United States has worked, Hamas has
14 worked equally hard to disrupt and to derail those peace
15 agreements.

16 You have heard about the Oslo Accords back in 1993 and
17 how Hamas was against the accords. They were against the
18 accords before those accords were ever even dreamed of. Going
19 back to their charter--any peaceful initiative is against
20 their mission.

21 After the accords came out, as Doctor Levitt told you,
22 Hamas started committing a series, over several years, of
23 suicide bombings all designed to disrupt the peace agreements.
24 The bombings were timed purposely at key junctions during the
25 accords when things were supposed to happen. For example,

1 when the United States Secretary of State would go to Israel
2 to discuss negotiations, there would be suicide bombings.

3 So because of Hamas' actions, one reason is because of
4 Hamas actions, those peace agreements today have never come to
5 fruition And THAT is another reason why we should care how it
6 affects our interests.

7 The third reason is because, plainly and simply, it is
8 against the law to give to Hamas. The United States passed
9 two types -- has two types of terrorist designations. The
10 first one came out in 1995, and Steve Simon talked a little
11 bit about this. This was an executive order issued by
12 President Clinton, and he got the authority to issue the order
13 from the law that Judge Solis read to you a little while ago
14 and that you will have in writing when you go back to
15 deliberate. It is basically called IEEPA. And I know that is
16 not what the jury instructions are, but that is what we call
17 it--International Economic Emergency Powers Act. That gave
18 President Clinton the power to enter an executive order, and
19 that executive order has a force effect of law.

20 And through this executive order that he issued, and I am
21 holding up a copy, this is InfoCom Search No. 37 which was
22 taken from the offices of Ghassan Elashi, through the
23 executive order President Clinton said, and I am going to read
24 just a small paragraph of it because I think this encapsulates
25 what I said a moment ago about why the United States should

1 care about what Hamas does, "I, William J. Clinton, President
2 of the United States of America, find that grave acts of
3 violence committed by foreign terrorists that disrupt the
4 Middle East peace process constitute an unusual and
5 extraordinary threat to the national security, foreign policy,
6 and economy of the United States, and hereby declare a
7 national emergency to deal with that threat."

8 So he issued the order. And attached to the order is a
9 list of groups in the Middle East whose purpose was to disrupt
10 the Middle East peace process. And one of those groups, a
11 charter member, is Hamas.

12 A little while later Congress passed another law, and
13 that allowed a second designation. This first one we call
14 SDTs, specially designated terrorist. This is the one
15 administered by the Treasury Department that Bob McBrien from
16 the Office of Foreign Assets Control came and testified about.

17 The second law is what we call foreign terrorist
18 organizations, FTOs. That is administered by the State
19 Department. Hamas is a charter member of that as well. That
20 came out in 1997. Under both designations it is against the
21 law to give money to Hamas if you did this knowing and
22 willfully.

23 Judge Solis again read the charges to you. The charges
24 in this case stem from those designations. Bottom line, it is
25 against the law. You as jurors took an oath to uphold that

1 law, and no one in this courtroom wants you to just throw that
2 oath away.

3 Finally, the reason why we should care about Hamas,
4 basically we are all human beings, and what they do as a
5 terrorist group is a personal affront to all of us.

6 I want to turn your attention back and talk about the
7 Holy Land Foundation and these Defendants. I am going to turn
8 back to when Hamas was formed--late 1987 early 1988. Back
9 then the Defendant Shukri Abu Baker was living in Plainfield,
10 Indiana working for an organization called MAYA, M-A-Y-A,
11 Muslim Arab Youth Association. Now, MAYA was a Muslim
12 Brotherhood organization that we have heard about and seen in
13 some of the documents.

14 But when Hamas was formed Shukri Baker started an
15 organization called, I believe it was the Palestinian Relief
16 Fund. I may be getting the exact title wrong. That title did
17 not last very long.

18 Shortly after, he moved to California to the LA area and
19 opened up with the Defendants Ghassan Elashi and Mohammad
20 El-Mezain the Occupied Land Fund. We all know the Occupied
21 Land Fund changed its name a few years later and became the
22 Holy Land Foundation.

23 Now, you have seen some Secretary of State records from
24 California, and one in particular, Secretary of State CA-1,
25 that is the opening documents to create and incorporate -- I

1 am just going to call it the Holy Land Foundation. Even
2 though it says Occupied Land Fund back then, it is the Holy
3 Land Foundation. It is easier for me.

4 And we see that Shukri Baker from this document was chief
5 executive officer, Ghassan Elashi was the treasurer, and the
6 Defendant Mohammad El-Mezain was the chairman of the board.
7 And there are other documents like this which are in evidence
8 that show them having other titles as directors.

9 Basically these three were the founders and the core of
10 the Holy Land Foundation from the time it was opened in 1987,
11 1988, until it was closed in December of 2001. Their titles
12 may have changed over time, their functions may have changed,
13 but they were always the three individuals who were the top
14 dogs of the organization.

15 The Defendant Mufid Abdulqader was a fundraiser for the
16 organization for Holy Land Foundation, one of the top
17 fundraisers. And at 1994, I believe, they started spreading
18 out and they opened up a New Jersey office, and the Defendant
19 Abdulrahman Odeh was hired to run the New Jersey office.

20 Now, I said earlier that the Muslim Brotherhood was
21 started in Egypt and it spread out across the world, including
22 a chapter in Palestine that we talked about. But something a
23 lot of people don't know is that the Muslim Brotherhood has
24 and had a presence in the United States since at least the
25 early 1980s. They had a chapter here as well. And initially

1 they had -- they oversaw several organizations, MAYA being one
2 of them. They had the Islamic Association of Palestine, IAP.

3 But in 1987 when the Intifada started and Hamas came to
4 being, the international Muslim Brotherhood directed the
5 chapters throughout the world to start what is called
6 Palestine Committees. And the Palestine Committee was another
7 organization under the umbrella of the Muslim Brotherhood.

8 Well, the Palestine Committee in the United States, it
9 itself oversaw three organizations--the IAP, UASR, and the
10 HLF. And each of those organizations had a specific job, a
11 specific function. The IAP was the media outlet for the
12 Palestine Committee. It got out the Hamas communiques, the
13 Hamas charter published, it had a newsletter we saw called
14 Illa Falistine.

15 UASR was a think-tank, and it organized and formed -- one
16 of the people who formed UASR was Mousa Abu Marzook. UASR
17 published the Middle East Affairs Journal and some books that
18 we have seen about Hamas.

19 And the Holy Land Foundation was a treasury, the
20 fundraiser for the Palestine Committee. I like to call the
21 Palestine Committee Hamas in America, because that is really
22 what they are.

23 And how do we know all this? We know this from a wide
24 variety of evidence, starting with the Elbarasse records.
25 Ismail Elbarasse is a man who lived in northern Virginia right

1 outside Washington, D.C. We know -- We have seen bank
2 accounts. He held several joint bank accounts with Marzook,
3 one of the leaders of Hamas. And we know that he had a
4 treasure trove of records that were seized from his house.

5 And we went through a bunch of them, I went through a
6 bunch of them with Agent Burns, and I am only going to hit a
7 few of them that nicely summarize what I just said about the
8 creation of the Palestine Committee.

9 And If we can pull up Elbarasse Search No. 5, please. If
10 we go to page 14.

11 This document is called the Islamic Action for Palestine.
12 And there are several references in here to Hamas, there is
13 references to the Occupied Land Fund, the Holy Land
14 Foundation. I want to read just this one paragraph from this
15 document, because this says it all. And it is under section
16 five, "Islamic action for the Palestinian cause in North
17 America."

18 "Like other Western, Arab, and Islamic arenas, the
19 American arena has seen a move for action for the Palestinian
20 cause by the grace of God and due to the presence of the
21 Islamic Movement and its pioneer the Muslim Brotherhood
22 movement. The first organizational frame for Islamic Action
23 for Palestine came in the beginning of the eighties when the
24 leadership of the movement decided to establish the Islamic
25 Association for Palestine in North America--that is, the IAP.

1 The Association was, and still is, the general field through
2 which the Movement expresses its view and positions regarding
3 the Palestinian cause. When work developed, the Intifada
4 started and the Islamic Resistance Movement, Hamas, was
5 formed, and the general apparatus for Palestine developed.
6 And in light of the resolution to the guidance office and the
7 shura council"--that was part of the Muslim Brotherhood's
8 international movement--"of the international movement to form
9 Palestine committees in all the countries, the general
10 director of the apparatus came and met with the leadership of
11 the Movement in America in 1988. After discussions and
12 agreement, a Palestine Committee was formed under the
13 supervision of the executive office. The committee was then
14 tasked with supervising all of the organizations which served
15 the plan of the Movement domestically and internationally, in
16 addition to the Palestinian cause. Among those organizations
17 were the Islamic Association"--the IAP--"the Occupied Land
18 Fund"--HLF, these Defendants--"and the United
19 Association"--UASR. Like other directors of the Movement's
20 committees and sections, the director of the Palestine
21 Committee is to submit periodical reports and adheres to the
22 directions and the guidance of the leadership of the group.
23 And we have seen some of these periodical reports.

24 Now, just one more page in this document, the next page,
25 page 15, says, "The Palestinian cause, or say the Islam's

1 cause in Palestine, needs today an effective and a
2 distinguished roll for the grand Islamic Movement as one
3 fortified wall behind its leadership represented by the shura
4 council and a strong support for their tool and striking wing,
5 the Islamic Resistance Movement, Hamas."

6 That is what the purpose and role of the Palestine
7 Committees were--to support Hamas.

8 I want to pull up Elbarasse Search No. 7. The Palestine
9 Committee was fairly organized. It had bylaws. Elbarasse
10 Search No. 7 is called a suggestion to amend those bylaws of
11 the central committee. Now, Elbarasse Search No. 7 says that
12 the Palestine Committee will be called the central committee
13 in order to differentiate it from other committees. And that
14 is important, because we will see in several documents that
15 they used the term central committee, but they are using it
16 the Central committee. Central committee, Palestine Committee
17 means the same thing.

18 In this document it talks about issues relating to the
19 IAP, issues relating to the Occupied Land Fund--Holy Land
20 Foundation--and issues relating to UASR. And specifically
21 with regard to the HLF it talks about drawing a general
22 strategy for the Fund, approving its plan, its budget, its
23 employees, approving its board of directors.

24 Now, you heard their accountant testify. And while he
25 may not have worked there when these documents were created,

1 he said the HLF is an independent organization that doesn't
2 answer to anybody. Well, that is not true. The HLF answered
3 to the Palestine Committee and it was led by the Palestine
4 Committee as says so in these documents right here.

5 The last page of this document has remarks on it, and one
6 of the remarks says, "Collecting donations for the Islamic
7 Resistance Movement from the Ikhwan and others." Collecting
8 money for Hamas.

9 Now, The Ikhwan, as Doctor Esposito, the Defense witness,
10 told you, means Muslim Brotherhood members. So this says
11 collecting money from the Muslim Brotherhood members for
12 Hamas.

13 One more Elbarasse document, at least for the moment.
14 Elbarasse Search No. 10. This document, this page was in
15 English. We, the Government, did not create this chart. But
16 I will be honest with you, if we had it we probably would
17 have, because this chart also says it very nicely.

18 It shows the central committee, and again they use that
19 name interchangeably with Palestine Committee, and the
20 organizations that it oversees, including the IAP, UASR and
21 OLF or HLF.

22 If we go to page 4, this is a translation of the prior
23 page, which is in Arabic. This lists out the members of the
24 Palestine Committee. And who do we see? We see many names
25 that we have seen throughout this case, including Mousa Abu

1 Marzook, Omar Ahmed, which is another name he goes by,
2 Elbarasse where these records were found, Ashqar where there
3 was a search warrant done on his place, and the Defendant
4 Shukri Baker and Mohammad El-Mezain these names are seen
5 throughout this list.

6 But these documents, the Elbarasse documents, are not the
7 only evidence of there being a Palestine Committee and who was
8 part of it. I mentioned a second ago that there was a man
9 named Ashqar that was on that list. In 1993, I believe it is,
10 the FBI did a covert search of Ashqar's home. And we have
11 seen some of those records. And one of the items taken was a
12 phone list. This is Ashqar Search No. 1.

13 On this phone list, this one is page 4, it is called
14 "important phone and fax numbers, Palestine section, America."
15 And who do we see on here? We see Mousa Abu Marzook, who in
16 some of the other Elbarasse documents said he was head of the
17 Palestine Committee at the same time he was head of Hamas; No.
18 5, mohammad El-Mezain the Defendant; No. 8, Ghassan Elashi the
19 Defendant; No. 18, Shukri Abu Baker the Defendant.

20 There is also a lot of other names on here that we have
21 heard and I am not going to go through there, but this is
22 another source. This is the Palestine Committee not coming
23 from Elbarasse, but from Ashqar.

24 Where else have we seen these names? The Marzook
25 phonebook. This is the phonebook, the little black book,

1 literally, because it is a little black book, of the terrorist
2 leader of Hamas that was taken from him at JFK Airport in
3 1995. And throughout this phonebook, which is in Arabic but
4 there is a translation, you will see many of the names and
5 phone numbers of these Palestine Committee members, including
6 on pages 59, 63, and 48, the phone numbers of the Defendants
7 here.

8 Now, what we see is that we have this Palestine Committee
9 and the relationship, almost like brothers, between the
10 organizations that it oversees--the IAP, HLF, and UASR. But
11 the Palestine Committee could not let the American public know
12 that it existed, or its purpose. The IAP, HLF, UASR, could
13 not let the public know that it was designed and created to
14 support Hamas.

15 Even though in the early years Hamas was not a designated
16 organization, a designated terrorist organization, and it
17 wasn't illegal to give money to them, they still had to
18 conceal their relationship to Hamas because Hamas was
19 committing terrorist acts, and to be supportive of it in the
20 American's public view would not be a good thing.

21 To that end, you will see throughout the evidence time
22 again when the Defendants try to deceive the American public
23 as to its true purpose. And let me give you just two
24 examples.

25 There is was a civil lawsuit involving the Holy Land

1 Foundation where the Defendant Mohammad El-Mezain and Shukri
2 Baker gave depositions. And in those depositions, one called
3 El-Mezain Deposition and one called Baker Deposition, they
4 were both asked about their relationship between the HLF and
5 the IAP. And the Defendant Mohammad El-Mezain said there was
6 no relationship. The Defendant Shukri Baker said they were
7 not affiliated; that they just had a business relationship.
8 Well, these records, these Elbarasse search records and these
9 other documents tell you otherwise.

10 And why would they lie about their relationship with IAP
11 unless they were trying to conceal the true nature and
12 purpose.

13 We see in the Elbarasse records annual reports, and I
14 want to just -- We see Elbarasse Search No. 13, for example.
15 Elbarasse Search No. 8 is an Occupied Land Fund annual report
16 up to the Palestine Committee. It discusses opening an office
17 in Jerusalem and changing its name. And these are just
18 representative samples of the Elbarasse documents that all
19 just lay out the Palestine Committee and its purposes, who it
20 controls, and its support for Hamas.

21 Now, there were several times when we have seen the
22 Palestine Committee in action, and I am not talking about the
23 documents. You have heard about the Philadelphia meeting.
24 This was a meeting that took place in October 1993 among
25 members of the Palestine Committee and others right after the

1 Oslo Accords.

2 Now, you have heard that Shukri Baker, Omar Ahmed, and
3 Ashqar were heavily involved in the planning of this meeting,
4 and we have heard some of those calls--Ashqar Wiretap No. 1,
5 Ashqar Wiretap No. 2. They talked about the agenda, who was
6 going to attend, about the location, and other issues.

7 And we created for you a chart that you will have of who
8 was there; who attended the Philadelphia meeting. Now, this
9 is based upon the voices that were heard on the recordings,
10 because we all know the FBI had bugged the meeting, had
11 listened in, based upon the hotel records where it took place,
12 upon the surveillance photos of the FBI, upon the phone calls
13 that they said who was going to be there, and upon the
14 American Express records of the HLF, because they pay for a
15 lot of the people to attend these meetings.

16 Now, I want to talk for a moment about the Defendant
17 Mufid Abdulqader. We know he was there because the hotel
18 records say so. He signed a Marriott record with his name.
19 Now, that Marriott record has "void" written across it, and it
20 says in the corner "changed rooms." But if Mufid Abdulqader
21 wasn't there, how would his signature be on the hotel record?
22 It is because he was there.

23 Ms. Cadeddu questioned Alex Shafik. He was the
24 Government's translator. He testified early on in the case.
25 And she said to him, "You didn't hear my client's voice at the

1 Philadelphia meeting, did you?" I think she was a little
2 surprised by his response because he said, "No, I did hear his
3 voice. He was there. I was 80 percent sure that was him.
4 Because I wasn't 100 percent sure, I just didn't put his name
5 down on the transcripts." But between that and between the
6 hotel records, this tells you that Mufid Abdulqader did attend
7 the Philadelphia meeting.

8 Now, Ms. Cadeddu asked several witnesses about the band
9 that Mufid Abdulqader played in, the al-Sakhra band. And she
10 questioned him about other band members. And with one witness
11 she counted how many band members there were, and collectively
12 over time there were nine, and she asked the accountant about
13 how good of a fundraiser was he and other fundraisers. And I
14 think the point she was trying to make, and she will have an
15 opportunity to talk about this shortly, is that there were
16 other band members, there were other fundraisers, why is Mufid
17 Abdulqader here? Why should he be prosecuted for these
18 crimes? And she is probably going to say, I am guessing, that
19 he is here because his brother is Khalid Mishal, the leader of
20 Hamas.

21 Mufid Abdulqader is here because he was very heavily
22 involved in the fundraising for the HLF and because he fully
23 knew their mission and their purpose, and he is supportive of
24 it.

25 Let me ask you this. How many other band members do we

1 see who attended Philadelphia? There are a couple of the
2 fundraisers, but not that many.

3 Now, during this conference the transcripts, which are
4 marked as Philly Meeting No. 1 through 18, and you can review
5 those, a lot of things were discussed. They jumped around a
6 little bit, and what I want to do is just give you a
7 representative sample of some of the statements and some of
8 the subject matters.

9 If we can pull up the PowerPoint.

10 Now, the purpose of the meeting. Shukri Baker in another
11 lawsuit, not the one where there was the deposition, but a
12 different lawsuit, filed a sworn statement under oath as to
13 the Philadelphia meeting. This was filed in 2002. What he
14 said was, "In the 1993 Philadelphia meeting was a meeting of
15 Islamic intellectuals, academicians, community leaders, and
16 representatives of the American Islamic organizations such as
17 ours." He said, "It was not a meeting of any organization."
18 That is a lie. And that was done to conceal the true purpose
19 of the Palestine Committee. As I said, they were deceptive.

20 How do we know it was lie? Because Omar Ahmed during the
21 course of the Philadelphia meeting said, quote, "This meeting
22 was called for by the Palestine Committee in order to have a
23 seminar or meeting to the brothers present here today in order
24 to study the situation in light of the latest developments in
25 the Palestinian arena, its effects and impact on our work here

1 in America."

2 What was the latest developments? The Oslo Accords.
3 They were very concerned about the Oslo Accords and its impact
4 on Hamas. So Shukri Baker's statement just sort of
5 downplaying the Philadelphia meeting and saying it was not a
6 meeting of any organization was not true.

7 They talked in code, or at least they tried to talk in
8 code. The word Samah. If you remember when Agent Burns
9 testified about Philadelphia, I wrote on the overhead -- I
10 wrote on a piece of paper on the overhead Samah. And what is
11 Samah backwards? Hamas. It is a pretty easy code, but it is
12 something that they try to talk in.

13 Shukri Baker said in the Philadelphia meeting, this is
14 transcript No. 3-E, which is just excerpts from the larger err
15 transcript, "Please don't mention the name Samah in an
16 explicit manner. We agree on saying it as Sister Samah. We
17 will talk about her honor, and the session is -- the session
18 here is a joint workshop between the Holy Land Foundation and
19 the IAP. This is the official form. I mean, please. In case
20 some inquired."

21 Why would Shukri Baker be concerned in case someone
22 inquired if this was a meeting of just Islamic intellectuals?

23 Later on someone says, "Is this against Hamas?"

24 Shukri Baker says, "Didn't we say not to mention that
25 term?"

1 And they say, "Is it against the Movement?"

2 Someone says in Philly Meeting No. 4, " Hamas, the Samah
3 Movement," and they all laugh. "I mean Samah." You will see
4 sprinkled throughout these Philadelphia transcripts the use of
5 the term Samah, Hamas, and Movement.

6 Shukri Baker in his declaration, the one I mentioned a
7 moment ago, said, "The use of toward Samah was a whimsical and
8 ironic play on words. Samah means forgiveness in Arabic, and
9 in my opinion those who used the term were making ironic fun
10 of Hamas, not adopting a secret term to disguise their
11 references to the organization."

12 When you read the Philadelphia transcripts, what I would
13 like you to do is every time you use the word Samah,
14 substitute the term forgiveness and see if it makes any sense.
15 And then substitute the term Hamas and see if that makes any
16 sense. And I bet you using the term Hamas makes sense. And
17 in the context--context is important--in the context of the
18 use of the term Hamas, are they making ironic fun of that
19 organization or are they actually expressing their support for
20 it?

21 And by the way, it wasn't only in the Philadelphia
22 meeting that they used the term Samah. In Baker Wiretap
23 No. 4, Shukri Baker calls I believe Ashqar, and he talks about
24 someone who came to Shukri Baker claiming to be from Hamas,
25 and Shukri is calling Ashqar to verify and see if Ashqar knows

1 the guy. And Shukri uses the term Samah to reference the
2 individual.

3 They talk about the direction of the Movement, of the
4 Palestinian Committee and how they are supposed to act now in
5 light of the Oslo Accords. And someone, Gawad, says, "The
6 program or the organizations overall should be in complete
7 harmony with the general directions of the Movement," which is
8 another term for Hamas. "I say that once again because it is
9 very important. By harmony I mean that they ought to serve it
10 in a direct and an indirect manner."

11 Shukri Baker talked about this, and I want to play a
12 small clip from the Philadelphia meeting of Shukri Baker.
13 This is from Philadelphia Meeting No. 6, segment A, please.

14 (Whereupon, Philly Meeting No. 6, Segment A, was played
15 while statements were made.)

16 MR. JONAS: Where he says, "The general current is
17 marching in that direction," after talking about their
18 approach was of jihadist -- they had the jihadist address,
19 what he meant was, as you can say by reading this whole thing,
20 the Palestinian people was moving in the direction of fighting
21 the Israelis--no peace. Now let's see what he says.

22 He says, "We are still walking on the correct path, but
23 we are going in the opposite or counter to the general
24 current." Everyone was hoping for peace. Not everyone, but
25 certainly a large number of people were hoping for peace in

1 the Middle East. This is after Oslo, and they were all hoping
2 Oslo would work, frankly. But because Hamas was against it,
3 and because these Defendants here and the Palestine Committee
4 members were all part of and supportive of Hamas, they were
5 now going against the general current.

6 He says, "How should our address now be through our
7 organizations?" You will see throughout the Philadelphia
8 meeting they express a great concern how "Should we now
9 present ourselves to Americans, because we are going to be
10 seen as against the peace process if we tell them about our
11 true nature and purpose."

12 Shukri Baker talked about derailing the agreement. They
13 talk about this throughout -- If you go back to the
14 PowerPoint. They talk about this throughout this Philadelphia
15 meeting--derailing the agreement. Ashqar says, "We make this
16 presentation to the people in order to derail the agreement."
17 The next quote is a quote from Shukri that we just heard.

18 They talk about being deceptive. I said a moment ago
19 Shukri Baker said, "War is deception." Well, the full quote
20 from Philadelphia Meeting No. 7, "I swear by your God that war
21 is deception. War is deception. We are fighting our enemy
22 with a kind heart and we never thought of deceiving it.
23 Deceive, camouflage, pretend that you are leaving while you
24 are walking away."

25 Later on in Philadelphia Meeting No. 12 someone says, "A

1 special focus on the Islamic community while being careful not
2 to show the Association"--the Islamic Association for
3 Palestine--"as an opposition party with direct connections
4 with the inside. It expresses its position. It expresses to
5 the Movement's position, but it doesn't say, 'I should
6 represent the side,' or anything like that."

7 Shukri Baker says, "It should lie, you mean."

8 The person says, "It shouldn't talk." And They laugh.

9 "It shouldn't lie."

10 "It shouldn't talk."

11 Shukri Baker then says again, "War is deception."

12 Omar Ahmed says, "Learn from your masters in the Fund."

13 That is the Holy Land Foundation.

14 If this is coming from a man who claims to be heading up
15 a charity whose whole purpose is just to help children in
16 need, why would he be talking about war is deception?

17 They also talk about that they cannot tell Americans that
18 they are Hamas; something I have said that you will see
19 throughout this case, that they deceive the Americans as to
20 who they truly are. Philadelphia Meeting No. 8 Shukri says,
21 "Our brothers, we cannot use the same poetic Arabic style when
22 addressing the American mentality. Our brother, the Americans
23 will not understand it. 'Please allow me,' they will tell
24 you, 'if he doesn't represent you why the hell don't you get
25 rid of him.'" In this case, if you read the rest of the

1 transcript, he is talking about Yasser Arafat, how Yasser
2 Arafat and the PLO were representing the Palestinian people in
3 the Oslo Accords.

4 "He will tell you, 'If he doesn't represent you who
5 represents the Palestinian people?'"

6 Someone says, "We should drop the Arafat issue now. We
7 are talking about the Organization."

8 Shukri Baker says, "These are very critical questions.
9 We are replying to the question. It is very critical."

10 Someone says, "If he is democratic."

11 Shukri Baker then says, "I cannot say to him that I'm
12 Hamas." And the him being in the context of this quote is
13 America.

14 Later on in Philadelphia Meeting No. 6, Omar Ahmed says,
15 "We've always demanded the '48 territories." What that is, as
16 you heard, is Israel. Hamas' position is they demand all of
17 Israel.

18 Someone says, "Yes, but we don't say that publicly. You
19 cannot say it publicly in front of the Americans."

20 Omar says, "No, we didn't say that to the Americans."

21 They talk about not being able to -- Again, consistent
22 with this, being able to officially put down what their
23 positions are, someone in Philadelphia Meeting No. 5 says,
24 "This is the point. As an American organization we cannot
25 adopt this stuff and add it to our goals. This stuff in the

1 '80s, we at the IAP wrote that -- I mean, we cannot include
2 this kind of stuff officially in our papers."

3 They say, "Whether it is in America or outside of
4 America, when we talk about these goals, the first thing is
5 that I, as an official American organization, I'm telling you
6 about the things in the heart, the goals you're talking about
7 are in the heart. But can I write them down? Can I support
8 our brothers? We cannot write them down." Again they cannot
9 officially tell the Americans who they are.

10 Someone says, "Which I'm not. Which I'm not. I don't
11 represent the Movement officially in front of
12 people." Because they don't want people to know they are
13 Hamas. It is as simple as that.

14 They talk about being marked and already identified as
15 Hamas. And there was a stipulation between the Defense and
16 the Government that at this point it was out there publicly
17 that HLF was identified as being supportive of Hamas.

18 So someone says in the Philadelphia Meeting No. 5, "In my
19 opinion we must form a new organization for activism, which
20 will be neutral, because we are placed in a corner. We are
21 placed in a corner. It is known who we are. We are marked."

22 Someone says later on, again about creating a new
23 organization, that they could have -- that doesn't have this
24 stamp or this mark, "Therefore, I wrote about a point which
25 should be taken into consideration which is making available

1 an official U.S. cover representing the Islamic community in
2 general terms, you see? This way we can visit Palestine, not
3 as the Holy Land Foundation, because the Holy Land Foundation
4 is stamped already." Stamped as Hamas.

5 Shukri Baker then talks about in Philadelphia Meeting No.
6 5 forming the organization. He agrees with it. And he says,
7 "Establishing alternative organizations which can benefit from
8 a new atmospheres, ones whose Islamic hue is not very
9 conspicuous."

10 Now, if you go to Elbarasse No. 19, that is another
11 document talking about the Palestinian committee that came out
12 several months after the Philadelphia meeting. And what we
13 see now in Elbarasse Search No. 19 at page 6, IAP, UASR, HLF,
14 and CAIR, the Council of American Islamic Relations.

15 Now, Mr. Dratel drew up a sign that said Council of
16 American Islamic Relations, and asked I believe Agent Burns,
17 "How could this hide their Islamic hue when the term Islamist
18 is in the title?" It is not the title that controls. It is
19 their actions that determine their Islamic hue, and it is
20 their actions that determine them as being marked and stamped
21 as Hamas.

22 After all, the HLF does haven't the term Islamic in their
23 title, but you will see in the Philadelphia meeting Shukri
24 Baker identifies themselves as an Islamic organization.

25 I want to talk for a minute about the band, the Al-Sakhra

1 band. Now, I played for you Philadelphia Meeting No. 60, I
2 played that clip already. That talked about, "We are going
3 against the direction. We had this jihadist address. What
4 can our address be now."

5 Someone says in Philadelphia Meeting No. 5 regarding the
6 band, "We agreed on certain policies. The band is looking for
7 certain policies to follow in its performance and product. So
8 if we agree on certain policies, they will be provided to the
9 band so its segments are based on them."

10 You heard Doctor McDonald, the ethnomusicologist, talk
11 about how the music of Palestine and the style changed over
12 time depending upon what was happening on the ground there, on
13 their events. And we have seen a lot of videotapes of the
14 band, and I am going to show a couple of clips in a little
15 while, and a lot of the videotapes where they are singing
16 Hamas, they sing all about Hamas and praising Hamas and Sheikh
17 Yassin. And we see that sort of change after the Philadelphia
18 meeting. It is all -- the rhetoric is toned down.

19 But why is that? Not because things on the ground are
20 changing, but because the Defendants in the Philadelphia
21 meeting are telling them, telling the band, "We can no longer
22 have these types of songs, because we can't let the Americans
23 know who we truly are."

24 And the band, despite what Ms. Cadeddu tries to make it
25 seem, is not some independent band that does weddings and some

1 fundraisers. They are the house band for the Palestine
2 Committee. And when you look at the Elbarasse records, you
3 will see that. Elbarasse Search No. 10, which is that chart
4 that they created, has the al-Sakhra band listed under the
5 IAP. And there are other of these Elbarasse records that talk
6 about the band as being theirs.

7 On one of the videos we see the band playing with an
8 instrument that says IAP on the instrument, al-Sakhra band,
9 IAP. It is their house band. That is how -- it helps them
10 raise their funds for Hamas.

11 Now, the Philadelphia meeting is not the only time we saw
12 the Palestine Committee in action. Let me talk about another
13 time. There was an incident in I believe it was 1994, a
14 dispute between Ashqar and the HLF. And Ashqar, who is part
15 of the Palestine Committee, had an organization called the
16 al-Aqsa Educational Fund, and it was based in Oxford,
17 Mississippi. And Ashqar brought to the United States a man
18 named Jamil Hamami. We heard his name many times. He is a
19 Hamas founder. It is not in dispute. He brought Jamil Hamami
20 to the United States to raise funds for his educational fund.
21 But that was a problem. He had made an agreement with the
22 Palestine Committee and the HLF not to bring fundraisers into
23 the United States during certain times of the years, without
24 clearing it with the Palestine Committee, and he never did
25 that.

1 So the Palestine Committee got together and had a
2 conference call, and this is in Shabib Wiretap No. 2. And
3 Ashqar refused to participate in this conference call, but you
4 had the Defendant Shukri Baker you had Muin Shabib, Omar
5 Ahmed, and others who were part of the Palestine Committee.
6 They went back and forth, "How do we handle this situation?
7 What do we do now?" Jamil Hamami, who they all respect and
8 admire, was traveling around the United States raising funds,
9 and they couldn't have that.

10 They eventually decided that the money that he raised
11 would go to the HLF, and the HLF would decide what to do with
12 the money. The committee all voted on it. And even though
13 Muin Shabib said in this conference call he disagreed, he went
14 along with it.

15 The problem is Ashqar didn't go along with it, and there
16 had to be follow-ups. And we have in Ashqar Wiretap No. 3 and
17 Ashqar Wiretap in No. 4 discussions of a letter that Mousa Abu
18 Marzook, the leader of Hamas, wrote to Ashqar, and basically
19 what he told him to do was, "Stand down. We have to have
20 harmony."

21 And that wasn't enough. We had Hamas leaders Jamil
22 Hamami and Mohamed Siam, who Doctor Levitt told you was a
23 roving ambassador for Hamas, travel down to Mississippi to see
24 Ashqar and told him, "Stand down. You can no longer do this."
25 And eventually the HLF won out on the dispute.

1 Now, the fact that Marzook, the leader of Hamas himself,
2 intervened and wrote a letter on behalf of the HLF speaks
3 volumes as to their importance to this terrorist organization.

4 The existence of the Palestine Committee continued after
5 Hamas was designated. In 1999 there was a phone call between
6 Omar Ahmed and Shukri Baker. This is Baker Wiretap No. 5. I
7 played this twice. In that phone call they are discussing how
8 much money to give to Mohammad El-Mezain for the work and
9 fundraising he had done for the HLF. Omar Ahmed uses terms
10 like "we considered" and "we paid" and "we reviewed." He
11 doesn't say the HLF did that. He uses collectively "we",
12 because he is part of the Palestine Committee and the HLF is
13 part of the Palestine Committee.

14 Now, why would Omar -- Now, the Defense wants you to
15 think, when I played this the second time with their
16 accountant, that El-Mezain may have been embarrassed and that
17 Omar Ahmed acted as a go-between. You heard the phone call
18 and you heard the way those men sounded on the phone. Omar
19 Ahmed said, "I am just a go-between."

20 Shukri Baker laughed. "You are just a go-between.
21 Right." Sarcasm.

22 Omar Ahmed wasn't a go-between acting on behalf of
23 El-Mezain. Omar Ahmed was a high level member of the
24 Palestine Committee and he was addressing the HLF's business,
25 just like it called for in the Elbarasse documents.

1 Now, what is plain I from these documents, the phone
2 calls, the Philadelphia conference, all this body of evidence
3 coming from a diverse source of locations, there is a group
4 called the Palestine Committee formed out of the Muslim
5 Brotherhood in the United States, whose purpose was to support
6 Hamas; that it controlled by the IAP, the UASR, and the HLF,
7 each one playing a different function. And later on it
8 controlled CAIR.

9 But this is not coming just from these organizations.
10 There is another government that identified the same
11 organizations as being part of Hamas.

12 If we can pull up Palestinian Authority No. 2, page 1
13 first.

14 This was a document that was taken from the Palestinian
15 Authority, and it was shown to Ed Abington, the witness for
16 the Defense, who identified -- who said he believed on the top
17 is Yasser Arafat's signature. Yasser Arafat was heading the
18 Palestinian Authority.

19 If we can go to page 5, please. Enlarge the top.

20 This document is entitled "Hamis financial resources
21 worldwide." And it lists several organizations including the
22 Holy Land Foundation, the IAP, and UASR.

23 So these documents taken from members of the Palestine
24 Committee in the United States, as well as the phone calls, is
25 supported by material taken from the Palestinian Authority who

1 on their end have identified the same groups as supporters of
2 Hamas.

3 Now, I want to spend a few minutes talking to you about
4 what the HLF is doing in the early years. I want to talk
5 about their relationship with Marzook first.

6 Shukri Baker had a phone call with a reporter in 1996
7 named Gayle Reeves, and she asked him about -- This was right
8 after Marzook was arrested. He had been arrested a few months
9 earlier. She asked him about the relationship with Marzook
10 and why Shukri Baker's phone number was in Marzook's
11 phonebook. I want to play that segment of that call. And I
12 am not playing a lot of calls, but there are certain calls I
13 want to play because I want you to hear tone of the voice of
14 the Defendant.

15 (Whereupon, the exhibit was played in open court.)

16 MR. JONAS: It is clear from this phone call that
17 Shukri Baker is distancing himself and the HLF from Marzook.
18 He says, "It was a one-time donation of \$210,000, and I don't
19 know why he would have my name and number in his phonebook."

20 He also said something similar in the deposition for that
21 lawsuit I mentioned, the Baker Deposition where he said, "He
22 made a one-time \$210,000 contribution." That ignores the
23 evidence.

24 If we can pull up the payments between Marzook and
25 Defendants, please.

1 This was a financial schedule showing a lot of movement
2 of money between the Defendants and Marzook going back to
3 1988, not just between the Holy Land Foundation and Marzook
4 but Defendant Shukri Baker, Ghassan Elashi, and Mohammad
5 El-Mezain individually. And one thing that should be noted in
6 here that Shukri Baker conveniently failed to tell Gayle
7 Reeves and conveniently failed to say in his sworn deposition
8 that the HLF themselves was giving \$30,000 to Marzook and his
9 wife back in '88 and '89. And why would they be giving money
10 to the lead of a terrorist organization if they had nothing to
11 do with him?

12 This also ignore always the phone calls. Shukri Baker
13 was downplaying his number being in Marzook's phonebook.
14 "Maybe he just, you know, had it there because I am the leader
15 of the charity." Well, remember this chart, and you will have
16 a copy of this chart with you when you deliberate. This is
17 based upon phone records that are in evidence. This shows
18 that there is a lot of contact, a lot of telephonic contact
19 between Mousa Abu Marzook and Shukri Baker, the Defendant
20 Mohammad El-Mezain, Defendant Ghassan Elashi, and the HLF.

21 The Defendant Mohammad El-Mezain said in his deposition
22 that he spoke to Mousa Abu Marzook maybe once every two or
23 three years. Well, this covers about a three-year time period
24 and there is approximately 56 calls there. I know Mr. Dratel
25 went through some of the phone records and he identified a

1 whole bunch of them as being one- or two-minute phone calls,
2 but a whole bunch of them were a lot longer than that, first
3 of all. And second of all, just the fact that they try to
4 speak to each other this number of times tells you a lot about
5 their relationship.

6 The fact that El-Mezain tried to downplay their
7 relationship tells you a lot about how he was trying to be
8 deceptive--again, to distance himself from Hamas and trying to
9 play off "We have nothing to do with Hamas."

10 Twenty-five phone calls to Shukri Baker from the
11 Defendant -- I am sorry. From Marzook. Does that sound like
12 someone on the phone with Gayle Reeves who downplays the
13 relationship? "I don't know why he would have my phone
14 number." Twenty-five phone calls to his home phone.

15 These records only cover the early '90s because that is
16 all the FBI had. We are not saying there were more phone
17 calls. We are not saying there were. Frankly, we don't know.
18 This is just the extent of the evidence. But this evidence
19 alone says a lot.

20 Now, Marzook wasn't the only high, level Hamas leader
21 that they had dealings with, although he was certainly the one
22 they had the most dealings with.

23 Mr. Jacks went through this with Agent Miranda. This was
24 also based upon phone records. If you look at Marzook's
25 phonebook and if you look at some of the phone records, you

1 will see that HLF was calling Ahmad al-Alami, who in Ashqar
2 Search No. 7 is identified as a Hamas leader in Iran. Khalid
3 Mishal, the leader of the Political Bureau, called Defendant
4 Mohammad El-Mezain and invited him to come to a meeting in
5 Turkey.

6 Jamil Abu Baker is Shukri Abu Baker's brother who was the
7 Hamas representative in Sudan, and is currently the Hamas
8 representative in Yemen. Yes, they spoke to the family, the
9 brothers, but they also spoke about business, about Hamas
10 business.

11 Mohamed Siam, the roving ambassador to Yemen who I talked
12 about intervened in that incident with Ashqar, there was
13 contact with him, as well as the Syrian representative
14 Moustafa Qanuo and Abdel Aziz Rantisi, one of the Hamas
15 leaders that is on Demonstrative No. 17.

16 This is not the only contact they have with Hamas
17 leaders. If you recall, there was \$250,000 in payments in the
18 late '80s, early '90s, to an organization called K&A Trading
19 based in Switzerland. Now, why would a charity be sending
20 \$250,000 to a company called K&A Trading if it was a
21 legitimate charity? I will tell you why they were doing it.
22 K&A Trading is, per the K&A Trading bank account that is in
23 evidence, is owned and operated by a man named Khari al-Agha.
24 Well, we see Khari al-Agha's phone number in Ashqar Search
25 No. 1, page 5, if we can pull that up.

1 If you recall, I showed you one of the phone lists from
2 the Ashqar search that said "Palestine Section inside
3 America." This is a phone list that says "Palestine Section
4 outside America." And the very first name is Khari al-Agha.
5 Now, Khari al-Agha also was identified by Doctor Levitt as
6 being a well-known Hamas financier, and that is why HLF is
7 giving him \$250,000.

8 That is not the only thing we know about Khari al-Agha.
9 Khari al-Agha also sent a lot of money to Mousa Abu Marzook.

10 If we can pull up the schedule Payments to K&A Marzook,
11 and you will have these schedules with you when you deliberate
12 as well as the supporting documentation, we will see that
13 Khari al-Agha over about a two-year period gave Marzook over
14 \$1.3 million. So that is consistent with what Doctor Levitt
15 said about Khari al-Agha being a Hamas financier. HLF sends
16 Khari al-Agha a quarter of a million dollars. A few months
17 later he turns around sends a large amount of that to Marzook.
18 It all ties in together.

19 Now, Doctor Levitt when he came back the second time
20 testified about all these high-level contacts--money,
21 telephones, there were videos we played when they had contact
22 with some of the top leaders of Hamas. And in a nutshell what
23 Doctor Levitt said was the fact there were connections with so
24 many Hamas leaders is not coincidental. He said he has seen
25 this type of contact before, but among people who were

1 cooperating with the group like Hamas.

2 He also said it is not surprising to see this type of
3 contract drop up once Hamas is designated, because they had to
4 distance themselves from Hamas. HLF as a charity, they had to
5 cut their ties from these top leaders, even though they didn't
6 cut ties from supporting Hamas itself.

7 Doctor Levitt also talked about the speakers that the HLF
8 brought in, and I will talk about that in a moment, being
9 Hamas speakers. And he tied it all up and basically said,
10 "These guys are dealing with the upper echelon of the
11 organization." Not even can do that. But yet if you are a
12 fundraiser for Hamas, you have that sort of access.

13 I want to talk about security concerns of both the Muslim
14 Brotherhood in the United States and of the Holy Land
15 Foundation.

16 We have seen in some of the Elbarasse documents,
17 Elbarasse Search No. 9, for example, Elbarasse Search No. 3,
18 talk about security. And these documents also talk about the
19 Holy Land Foundation and the Palestine Committee, so I don't
20 want you to think that these are just some random documents.
21 They all tie into what I have been talking about.

22 Elbarasse Search No. 9 on page 25 discusses publishing a
23 security bulletin for the group. Elbarasse Search No. 3 talks
24 about creating a center which is concerned with the security
25 issues.

1 Well, let me show you, if I can pull it up, InfoCom
2 Search No. 35. InfoCom Search No. 35 is a security manual,
3 and it was found at InfoCom among all the other HLF stuff
4 found there. And the title is "The Foundation's policies and
5 guidelines." And if you review this, it talks all about
6 operating covertly--in meetings, in telephone calls, in
7 travel, classifying documentation. It hits it all. Why would
8 a charity have something like this? Why would they need
9 something like this?

10 And the HLF, to a certain extent -- They didn't follow
11 everything. As far as we know they didn't follow everything
12 on here. Maybe they did and they were successful at it and
13 that is why we didn't know about it. But they did follow at
14 least some of the things.

15 For example, HLF Search No. 89 is a document where Shukri
16 Baker is requesting or trying to travel to Saudi Arabia under
17 the guise of being an InfoCom employee. But he wasn't an
18 InfoCom employee. It was to give his travel cover.

19 The manual says to check equipment for bugs, electronic
20 listening devices. They did that. HLF Search No. 91 is an
21 invoice with a report by a security company that swept the
22 Holy Land Foundation and found electronic listening devices.

23 They talked in code--the term Samah.

24 They tried to destroy tapes. Fawaz Mushtaha, one of the
25 band members, he tried to destroy a lot of incriminating

1 videotapes, some of which you have seen, that were found
2 buried in his backyard. If you remember that witness who
3 bought Fawaz Mushtaha's house, he testified very early on in
4 this case, and he told you that one day he was digging up his
5 backyard and he came across all these tapes, reel-to-reel, not
6 in their casing but reel-to-reel.

7 Joe Hummel, remember him? He was a former FBI agent who
8 currently works for the NFL in the security department. He
9 told you that when he was with the FBI back in 1995, he was
10 the one who drove to JFK Airport in New York to meet with
11 Marzook when Marzook was coming back in the country. And he
12 asked Marzook and his wife if they have an address book, a
13 phonebook, a little black book, and they both said no. And
14 the they were asked several times. They always said no.

15 Well, when Ms. Marzook went back for a strip search, what
16 happened? They found the address book. Following the manual,
17 trying to conceal it.

18 When it came to the Philadelphia meeting, Defense counsel
19 asked I believe Agent Miranda, I think, about, "Well, they
20 checked in under their own names, didn't they? And this was a
21 public hotel." It doesn't mean they weren't concerned about
22 the security.

23 In Ashqar Wiretap No. 1, which is the phone call with
24 Shukri Baker and Ashqar and Omar Ahmed planning the
25 Philadelphia meeting, Shukri Baker says that he is concerned

1 about the number of people attending being suspicious.

2 And during the course of the Philadelphia meeting, in
3 Philadelphia Meeting No. 2, on page 3, if we can pull that up
4 real quick. I am sorry. No. 2-E, page 3, the bottom one,
5 someone says, "The second remark is that the arrangements for
6 a meeting like that include many security loopholes. I
7 noticed that. I didn't expect that things will happen in that
8 manner, even though I'm just one of those people who were
9 invited to this meeting. But if I had known that this is how
10 the issue was going to be, had I known that it has this
11 magnitude, I would have had remarks about its arrangements.
12 So I hope in the future that no meeting is held in this
13 manner, because you are speaking about strategies and you
14 gathered all the people from the entire continent."

15 So even though they checked in their own name and it was
16 a public hotel, they were still very concerned about the
17 security at the Philadelphia meeting. And again, I come back
18 to what Shukri Baker said in a sworn statement, that it was
19 just a meeting of intellectuals. Why are they concerned about
20 security if that is all it was? Because it wasn't. It was a
21 meeting of Hamas in America.

22 Now, the HLF and these Defendants and the Palestine
23 Committee members weren't the only one whose were trying to
24 conceal the relationship between the HLF and Hamas. If you
25 recall, Steve McGonigle, a reporter for the Dallas Morning

1 News testified. And what Steve McGonigle said is that in 1999
2 he went to Gaza in order to do a story on the HLF. And he met
3 first with Mahmoud Zahar, one of the leaders of Hamas who is
4 on the Demonstrative No. 17. And Zahar told McGonigle that
5 the HLF isn't part of Hamas, and that he only met Shukri Baker
6 once at a convention where Shukri Baker asked him about some
7 medical advise.

8 Zahar failed to mention that he was an overseas speaker
9 for the HLF, that he raised funds for them, Elbarasse Search
10 No. 29 is the document that shows how much Zahar, along with
11 Jamil Hamami and the Defendant Mohammad El-Mezain, raised in
12 1999 throughout the United States on behalf of the HLF--almost
13 \$400,000.

14 Consistent with that we saw Mushtaha Search No. 1. It
15 was a video from the LA conference in 1990 where we saw the
16 Defendant El-Mezain, Jamil Hamami, and Mahmoud Zahar sitting
17 in the audience. And, in fact, Shukri Baker thanks them at
18 the end of the conference. So Mahmoud Zahar was lying when he
19 said HLF was not part of Hamas and that he only met Shukri
20 Baker once.

21 Steve McGonigle then met Sheikh Yassin on this trip. And
22 we played you two phone calls, Baker Wiretap No. 34 and Baker
23 Wiretap No. 38. And those two phone calls are between a guy
24 named Abu Muharam, who is the HLF rep in Gaza and the
25 Defendant Shukri Abu Baker and Ghassan Elashi. Shukri Baker

1 and Ghassan Elashi express a great deal of concern about
2 McGonigle's trip and what he is going to find out.

3 And Baker Wiretap No. 38 on page 5, let me see if I pull
4 this up because I want to read what exactly is said. Abu
5 Muharam tells them, "That's the only thing that happened. I
6 mean, he even had an interview with Sheikh Ahmed Yassin
7 yesterday."

8 Shukri Baker says, "Yes."

9 Muharam says, "Taher" -- Remember Taher Shriteh was the
10 fixer, the person that Steve McGonigle hired to set up these
11 interviews and be his guide throughout Gaza, as well as his
12 interpreter. Apparently Taher Shriteh, I don't want to say he
13 was a plant, but he was not who Steve McGonigle thought he
14 was. Taher Shriteh was one of these guys.

15 Abu Muharam says, "Taher is very intelligence. I mean,
16 he went in advance to Sheikh Ahmed and told him such and such,
17 and that this one is coming intentionally," meaning he is
18 targeting the Foundation, the Holy Land Foundation.

19 Abu Muharam goes on to say, "So when he interviewed
20 Sheikh Ahmed Yassin, he"--Ahmed Yassin--"played a little dumb
21 and told them that, 'What is this Holy Land Foundation? I do
22 not know anything about it. Where is it? Let them help us
23 and send us anything. We want to build a school.' I mean,
24 things like that."

25 That is exactly what Steve McGonigle told you that Sheikh

1 Yassin said to him. He said, Sheikh Yassin said, "What is
2 this Holy Land Foundation? We are building a school. Let
3 them help us."

4 Sheikh Yassin played dumb, as they say in this call. Why
5 would he have to play dumb unless he knew for sure Holy Land
6 Foundation was part of Hamas? And we are going to talk about
7 shortly, the Holy Land Foundation gave thousands and thousands
8 of dollars to Sheikh Yassin's institutions in Gaza--Islamic
9 Society and Islamic Center. Sheikh Yassin knew all about the
10 Holy Land Foundation, but he didn't want to reveal that to
11 Steve McGonigle, because he knew Steve McGonigle would reveal
12 it in the Dallas Morning News.

13 Later on in that call on page 14 Muharam says, "Taher is
14 very intelligent, of course. Taher, I mean, he told me that
15 15 days prior to his visit he started communicating with
16 him"--meaning McGonigle and Taher started communicating--"by
17 email, just like Steve McGonigle told you.

18 Muharam says, "But he sent him through an email that he
19 wanted to visit such and such. Taher, being intelligent, I
20 mean, went to Sheikh Yassin and told him such and such and so
21 and so is coming and is targeting the Holy Land Foundation,
22 meaning he is targeting it. So he gave Sheikh Yassin feedback
23 and briefed him on the situation and told him. So when he
24 came to Sheikh Yassin"--being McGonigle--"he told him that,
25 'your relationship with the Holy Land,' he told him, 'What

1 Holy Land? Is there a Holy Land in Gaza?'

2 "'Yes, there is a Holy Land.'

3 "'Then bring them to build a school for us. We want to
4 build a school." Sheikh Yassin, they are saying it again, he
5 was playing dumb.

6 Your Honor, I am at a good stopping point.

7 THE COURT: Let's go ahead and break here for the
8 lunch recess. Be back at ten until 2:00, 1:50.

9 (Whereupon, the jury left the courtroom.)

10 MR. JONAS: How much time?

11 THE COURT: You have used about an hour and 35
12 minutes.

13 MR. JONAS: Can you let me know when I hit the
14 three-hour mark?

15 THE COURT: All right. We will be in recess until
16 ten until 2:00.

17 (Lunch recess.)

18 THE COURT: Mr. Jonas?

19 MR. JONAS: Thank you, sir.

20 Ladies and gentlemen, I talked this morning a lot about
21 the organization, the HLF, how it was formed and all of that.
22 I want to spend a few minutes just talking about the
23 individual Defendants and sort of the ties the expressions
24 that they have had towards Hamas.

25 I want to pull up Illa Falistine No. 1, page 5, if we

1 can.

2 Now, this is a magazine published by the IAP, and in it
3 the Defendant Shukri Baker wrote, for lack of a better term, a
4 poem or an ode to Hamas. And it is called Hamas hayzam has
5 come."

6 And if we go to page 7 we see that the last line, or the
7 next to last line, is "Hamas hayzam has arrived and we will
8 not accept other than Hamas."

9 Now, in his declaration, that sworn statement that he
10 filed in a federal lawsuit, Shukri Baker said, "I reject and
11 abhor Hamas." Now, does this poem published in an IAP
12 magazine sound like someone who rejects and abhors Hamas? Or
13 is it more likely that in a sworn deposition filed in an
14 American court he was trying to conceal his relationship and
15 his support for Hamas?

16 Abdulrahman Odeh, the Defendant who ran the New Jersey
17 office, had some Hamas paraphernalia in his office; had a
18 picture, HLF Search No. 30, of Khalid Mishal, Yousef Qaradawi,
19 and another individual who is the head of another terrorist
20 group in Lebanon, in his office. He had some is books, one
21 called A Study About Hamas that was published by the UASR,
22 part of the Palestine Committee; another book called The
23 Jihadist School published by the IAP.

24 Now, these books, not only do they tell the Defendants
25 who some of the leaders are of Hamas and what is going on with

1 Hamas, not only is it published by the Palestine Committee, it
2 is something you can consider in determining whether Odeh and
3 the other Defendants are part of a conspiracy to support
4 Hamas. It is one piece of the puzzle.

5 The Defendant Mohammad El-Mezain, he received Hamas
6 communiquees from the IAP, mostly from the IAP. Some actually
7 came from Gaza. And we compiled those for you, and in the
8 exhibit known as El-Mezain Wiretap No. 1, they are in a
9 binder. And just as an example, by way of an example, some of
10 those communiquees reported about Hamas attacks. Page 27
11 reported on a suicide bombing in Jerusalem. And the report is
12 called "a special report about the jihadist heroic operation
13 in the midst of the city of West Jerusalem."

14 These reports of attacks in the communiquees that Mohammad
15 El-Mezain is receiving all portray the terrorist operations of
16 Hamas in a beautiful light. They glorify the killing and the
17 maiming of the Jewish people.

18 One of the reports talks about the kidnapping of an
19 Israeli soldier by Hamas who also happens to also be an
20 American citizen. Doctor Levitt told us about that.

21 On page 123, a report from January 1995, talks about a
22 double suicide attack in Israel that killed 18 people and
23 wounded 62. When I say a double suicide attack, that is one
24 of those where one person blows themselves up; as everyone is
25 running away, there is another person waiting for them there.

1 According to the particular communique as reported, a car
2 was booby-trapped near a bus station, and another bomb went
3 off by a restaurant as people were running away.

4 El-Mezain got a call about that particular bombing from
5 the Defendant Odeh. This is El-Mezain Wiretap No. 4. Odeh
6 called the bombing "a beautiful operation." And El-Mezain
7 ends the call by saying, "It will be good, God's willing."

8 Now, El-Mezain didn't just read about suicide bombings
9 and about jihadist operations. He also talked about them.
10 And I want to play Mushtaha Search No. 6. This is one of
11 those videotapes that was buried in the backyard of Fawaz
12 Mushtaha's house. We will play I think just three clips from
13 it.

14 (Whereupon, Mushtaha Search No. 6 was played in open
15 court.)

16 MR. JONAS: We heard about the Defendant Mufid
17 Abdulqader being in a band and being a fundraiser for the HLF,
18 and we saw a bunch of those videos and I just want to play a
19 couple of segments of some of those for you.

20 HLF Search No. 71, please. This is a videotape that was
21 seized from the Holy Land Foundation.

22 (Whereupon, HLF Search No. 71 was played while statements
23 were made.)

24 MR. JONAS: You heard from Mohamed Shorbagi that
25 that is the Hamas flag. It is the Palestinian flag, but when

1 it has writing in the middle of it, the Shahada, it becomes
2 the Hamas flag.

3 The individual on the right is the Defendant Mufid
4 Abdulqader.

5 I mentioned to you about how Hamas is in the
6 kindergartens and schools because kids are VERY
7 impressionable. Well, this is going on over here in
8 America--kids with guns on stage while the songs about Hamas
9 are being sung.

10 Mufid just wasn't in the band speaking. He was also a
11 spokesperson. If we can play a little clip, HLF Search
12 No. 112, this is Mufid sending out greetings to the leaders of
13 Hamas--Sheikh Yassin and Mousa Abu Marzook.

14 (Whereupon, HLF Search No. 112 was played in open court.)

15 MR. JONAS: That was a fundraiser in either late
16 1995 or I think '96 after Marzook was arrested and detained in
17 New York.

18 Elbarasse Search No. 32. This is one that Doctor
19 McDonald, the ethnomusicologist, played and discussed with
20 you, and there are some things I want to point out and discuss
21 with you as well. Elbarasse Search No. 32.

22 (Whereupon, Elbarasse Search No. 32 was played while
23 statements were made.)

24 MR. JONAS: When Doctor McDonald was questioned
25 about this clip by Mr. Jacks, Doctor McDonald acknowledged,

1 yes, there are two type of Hamas flags in that rally, and
2 wearing the Hamas headband, that green headband around their
3 head. But he wouldn't say it was a Hamas rally. He said, "I
4 would have to ask them if it was Hamas."

5 Let's use common sense here. If it walks like a duck,
6 talks like a duck, and looks like a duck, it is a duck. This
7 is a Hamas rally. Who are we kidding here? They are praising
8 Sheikh Yassin, they have the Hamas flags and the Hamas
9 banners, they are wearing the ski masks. Use your common
10 sense.

11 "I am Hamas, O dear one." That sums it up right there.

12 Let's keep going. We are going to fast forward a little
13 bit further in the skit because I want to show the ending.

14 That person that Mufid Abdulqader pretended to kill
15 wasn't dressed as an Israeli soldier. He was dressed as a
16 civilian in a suit. And this is the message that they were
17 sending, the Palestine Committee and the Holy Land Foundation
18 was sending out to its audience before they toned it down
19 after the Oslo Accords.

20 Now, Doctor McDonald talked about how the style of music
21 changed depending upon what was happening in the politics, and
22 how the al-Sakhra band would have been booed off the stage in
23 Palestine because they sang three different styles of music.
24 Do you know what? Let me be frank. Who really cares about
25 the style of music. The message was the same each and every

1 time, and not just in the music, but in the skits, and
2 everything they were saying. It was all supportive of, in
3 favor of, "give your money to us so we can send it to Hamas."
4 Simple as that.

5 Now, the Defense attorneys have talked about, and I am
6 sure they are going to talk about this again with you, freedom
7 of speech. And freedom of speech is an incredible right that
8 we have here in the United States. But the Defendants aren't
9 charged with what they said. They are charged for what they
10 did, and that is sending money to Hamas.

11 And in determining whether or not they are guilty of the
12 crimes charged, you have to determine their intent--what is
13 going on inside their head. Did they know they were giving
14 money to Hamas? Did they intend on it going to Hamas? And we
15 can't look inside their head and see it. We have to go by
16 what they have said.

17 Ms. Moreno said to some of you during jury selection a
18 long time ago, "We can't know what is going inside your head.
19 You have to tell us." That applies to the Defendants as well.

20 Look at it this way. We have all seen police shows and
21 police movies. We are all familiar with our Miranda rights.
22 You have the right to remain silent. Anything you say can and
23 will be used against you. And that is what we have here.
24 They are perfectly right to say, "I support Hamas." But when
25 they start giving money to Hamas, then what they said can and

1 will be used against them to determine their intent.

2 I want to talk about their fundraising. After all, they
3 were a charity. They had to raise funds for Hamas. And they
4 raised funds through a variety of different ways, one of which
5 was the conferences. We have seen many videotapes from the
6 conferences. And if you will indulge me I want to say one
7 more, because there are a couple of things I want to say about
8 it.

9 If we can play Mushtaha Search No. 1. This is a long
10 one. We are only just playing a few moments of it.

11 (Whereupon, Mushtaha Search No. 1 was played while
12 statements were made.)

13 MR. JONAS: Now, you remember earlier I talked about
14 Steve McGonigle and his trip to Gaza and he met Mahmoud Zahar
15 who said, "HLF is not Hamas. I met Shukri once." Well, the
16 individual in it looks like a light blue shirt with a striped
17 tie and the beard is Mahmoud Zahar. Sitting to his right, on
18 the left on the screen is the Defendant Mohammad El-Mezain.
19 Sitting next to Mohammad El-Mezain is Hamas leader and founder
20 Jamil Hamami.

21 This -- I think this one was in Los Angeles, I think
22 about 1990. Imagine you are sitting in the audience at this
23 fundraiser and this is what you are hearing--"Hamas; ignite
24 the Intifada stone and fire," and all this violent singing.
25 An you see leaders of Hamas in the audience and they actually

1 went up and they spoke. Where would you think your money is
2 going to? It is pretty clear what they are trying to tell
3 people here.

4 This is Mufid Abdulqader. A couple of more clips from
5 this one.

6 This is Shukri Abu Baker speaking.

7 Munzer Taleb on the Palestine Committee.

8 Fawaz Mushtaha, he is the one who likes to bury things in
9 his backyard.

10 The Defendant Mufid Abdulqader. The reason why I wanted
11 to bring this up is because when Mufid Abdulqader was
12 interviewed by the FBI, he said he didn't know anyone at the
13 HLF until he moved to Dallas in 1995. This videotape is from
14 about 1990. That just goes to show he was lying to the FBI.

15 See the praising of Abdullah Azzam? Remember we saw him
16 on videotapes several times talking about buying RPGs and
17 rockets with the OLF ads flashing on the screen?

18 This is the Defendant Shukri Abu Baker.

19 Mahmoud Zahar, the one that Steve McGonigle met with
20 Jamil Hamami.

21 Shukri Baker being the master of ceremonies at this
22 fundraiser with the Hamas songs, the Hamas leaders, the Hamas
23 flag, is just another reminder that in his sworn declaration
24 where he said, "I reject and abhor Hamas," was nothing more
25 than yet another attempt at deception to the American public.

1 One more videotape. I know I said one before. This is
2 the last one of the fundraiser, because there are a few more
3 we are going to play a little later on. There are a couple of
4 things in this other one I want to point out.

5 This one is from the MAYA conference. That is the name
6 of the exhibit--MAYA Conference. And we introduced it into
7 evidence through Mohamed Shorbagi. Remember Shorbagi was the
8 Palestinian who said on the stand before all of you that he
9 supports Hamas; that he worked with the Defendants in raising
10 funds for Hamas. And he was at this convention, this
11 conference. And Mr. Jacks questioned him about it, and there
12 is a couple of things about it that I just want to point out
13 to you.

14 (Whereupon, MAYA Conference was played while statements
15 were made.)

16 "Deported Mujahideen" is the deportees to Lebanon in
17 1992.

18 Muslim Arab Youth Association, MAYA. That is where
19 Shukri Baker was working when Hamas was first formed.

20 This is the band, in case you forgot who they were.

21 "No peace will do us justice. Nothing but jihad." That
22 is very similar to the Hamas charter.

23 The Defendant Mohammad El-Mezain.

24 It is a great example of economic jihad--supporting those
25 who are going out and being, as he puts it here, the invaders.

1 The tape he is talking about with Haitham Maghawri,
2 Haitham Maghawri went to Lebanon and recorded some of
3 deportees, and we played you some of those tapes and I am
4 going to play you one a little while later that was taken from
5 the Holy Land Foundation.

6 In that MAYA Conference tape, it goes on to show that
7 El-Mezain is raising funds to the HLF. And at one point he is
8 announcing all the money he is collecting in from the people
9 who are donating it. He says, "Donation from Hamas Algeria to
10 Hamas Palestine." Again, ladies and gentlemen, it is black
11 and white what we are dealing with here.

12 Besides the conferences where they are raising funds, the
13 HLF also sent out fundraisers across the country to go to
14 mosques on Friday nights and other events. The Defendant
15 Mufid Abdulqader was one of those people. And we played for
16 you three phone calls where he talks about how much money he
17 was raised and how he milked the people in the
18 community--Abdulqader Wiretap No. 1, Abdulqader Wiretap No. 2,
19 and Baker Wiretap No. 6.

20 And we know from the videos and the AMEX records,
21 American Express records for Holy Land Foundation, that he has
22 been a fundraiser for them going back as early as 1990,
23 despite what he told the FBI agents.

24 In addition to having domestic fundraisers, they also had
25 overseas fundraisers; in other words, people they brought in

1 from outside the United States to come here and raise funds
2 for them.

3 This is an enlargement of HLF Search No. 87. Remember
4 Mr. Jacks went through this with Agent Miranda? And this was
5 taken from the HLF computers. And Agent Miranda said it was
6 modified as late as 1999. And it is marked up in yellow for a
7 reason. Every yellow highlight means either that person, that
8 phone number, is somehow connected either to Hamas or the
9 Muslim Brotherhood. These are the people that the HLF is
10 bringing in to raise funds for them. Again, it is part of the
11 message that they are sending out there.

12 Now, how do we know that these people are Hamas and
13 Muslim Brotherhood? There are several ways. First of all,
14 Doctor Levitt has identified some of these people, and we have
15 talked about some of these people already. I am not going to
16 go through them, but Mahmoud Zahar and some of the other
17 well-known Hamas leaders.

18 Number two, many of these phone numbers are in the
19 phonebook of Mousa Abu Marzook, the Hamas leader.

20 Number three, if you recall we had a man named Paul
21 Matulic who testified early on in the trial. Matulic works
22 for the U.S. Senate. And he told you back in 1995 when he was
23 working for Senator Orrin Hatch, the Senator received a letter
24 from Hamas. And we will pull it up real quick. It is Hamas
25 letter No. 1 is the exhibit number. In fact, there is two

1 letters. And Hamas is demanding that Orrin Hatch get involved
2 with Marzook's detention and get him released.

3 One of the points of this letter is there is a phone
4 number and a fax number for Ibrahim Ghousheh, a spokesperson
5 for Hamas. That same phone number and fax number can be found
6 right here for many of these speakers.

7 Another way we connected these people is a pamphlet from
8 the Islamic Action Front. Now, the Islamic Action Front is a
9 Muslim Brotherhood in Jordan. And they may be a political
10 party there, but they are still a Hamas ally. In fact, when
11 Hamas outside leadership was based in Jordan, Khalid Mishal,
12 they operated out of the Islamic Action Front's offices.

13 So this pamphlet for the Islamic Action Front, found at
14 the Holy Land Foundation, the exhibit is HLF Search No. 88,
15 identifies many of these same people.

16 Finally, Ashqar Search No. 1. Phone numbers, Palestine
17 section outside America. Many of those same people and phone
18 numbers are listed here. And that just shows us this network
19 of people that they would bring in to raise funds for them who
20 the audience knew who these people were, as Shorbagi told you.
21 And the audience knew that this person is Hamas or this person
22 is Muslim Brotherhood, and they are raising funds for the HLF,
23 and that is just one of the many ways the HLF sent out the
24 message who they were. And this continued even after Hamas
25 was designated. What they may have said out of their mouth

1 may have been toned down, but who they were said a lot as to
2 where this money was going.

3 In addition, besides bringing in overseas speakers, the
4 HLF also would set up these conference calls with some of
5 these speakers where people can call in and listen in to these
6 speeches. And I think we played or read to you some of them,
7 but I just want to remind you of one, a flier for one, Baker
8 Wiretap No. 22. Now, this is a flier with half in English and
9 half in Arabic, but it is for two different conference--one
10 conference in English and one conference that is in Arabic.
11 What you can't tell here is that the Arabic conference has
12 Hamad Bitawi and Hamad Siam, two well-known Hamas members, as
13 the speakers. You don't see it on the English side, but it is
14 on the Arabic side. Again, it is the message that you are
15 sending. And this conference, I think was January 31st of
16 '97, this is after Hamas was first designated as a terrorist
17 organization.

18 Now, these are the type of people the HLF brings in to do
19 their bidding for them, to do the fundraising for them,
20 despite what Shukri Baker told Gayle Reeves in that phone
21 interview that she had with him, which is Baker Wiretap No. 2.
22 He said to her, "We didn't sponsor speakers from Hamas to
23 start with." Again, he is being deceptive. He is lying to
24 her.

25 There is also the videos of Abdullah Azzam. I am just

1 going to play one of them. It is very short. Mushtaha Search
2 No. 9.

3 (Whereupon, Mushtaha Search No. 9 was played in open
4 court.)

5 MR. JONAS: Right there, jihad with the money with
6 the OLF/HLF ad flashing. We had four tapes of Abdullah Azzam;
7 one of them where he is talking about buying RPGs and rockets,
8 and he talks about that in context of Sheik Yassin and
9 Intifadas and Hamas. We had another tape where he talks about
10 give up a week of candy, give up a week of soda, give up a
11 week of this, and take that money and send it to jihad.

12 Mushtaha Search No. 1, the one I played a few moments ago
13 from Los Angeles, one clip I didn't play is the Defendant
14 Mohammad El-Mezain praising Abdullah Azzam and talking about
15 that same speech where El-Mezain then emulates the speech and
16 tells the audience, "Give up a week of Pepsi." He
17 specifically says Pepsi Cola. "And send that money in here."

18 The fact that the HLF has taken these images of Abdullah
19 Azzam, who is a radical, fiery speaker, and slapped their ad
20 on it, it is like a celebrity endorsement. What are they
21 saying? They are saying, "This is what we are. Jihad with
22 money. Send us your money and we are going to send it for
23 jihad to support those who are the invaders."

24 Illa Falistine No. 2, the IAP magazine, if we can pull
25 that up, please. Page 12.

1 This is Abdullah Azzam on the cover. And in the back in
2 an article involving Abdullah Azzam it talks about sending
3 your money to the Occupied Land Fund, the Holy Land
4 Foundation.

5 If we go to page 9, there is an article not about
6 Abdullah Azzam but about Hamas. "We call on you to perform
7 jihad with your money." And where do they tell you to send
8 their money for jihad? The Occupied Land Fund. It is another
9 way to raise funds.

10 Mohamed Shorbagi told you in particular in one conference
11 he went to that Khalid Mishal and Mousa Abu Marzook was there.
12 It was a MAYA conference, so there was more than just the
13 Palestine Committee. But there was a closed door session that
14 he attended where Marzook and Mishal spoke. And Mishal talked
15 about the emergence of Hamas, and he was calling upon the
16 people in the audience for their support to help Hamas and the
17 role that those people were going to play.

18 He said that afterwards there were break-out groups.
19 There was a media group and there was a money group, as well
20 as some other groups. And he said that Ahmed Yousef, who
21 headed up -- who Doctor Esposito told you headed up the UASR,
22 he was there as the head of the media group. And he told you
23 that the head of the money group was the Defendant Mohammad
24 El-Mezain.

25 Now, what sort of response do you think the community

1 would give to the HLF? They are sending out this message of
2 "We are Hamas, Hamas, Hamas." You would think that some
3 people would react to that. And some people did. I don't
4 mean in a negative way. I mean in a supportive way. Some of
5 the early checks written to the HLF, and these are from the
6 NAIT records, the HLF's early bank records, North America
7 Islamic Trust, pages 110 of those exhibits, 111, 115, 116 and
8 on, in the memo section of the checks it says for the
9 Palestinian Mujahideen. Now, we know that means the Hamas
10 military wing before they changed their name.

11 InfoCom Search No. 7, infoCom Search No. 8, InfoCom
12 Search No. 9 are letters from people written to the HLF
13 regarding supporting jihad.

14 HLF Search No. 25, I want to bring this one up. This was
15 a letter found in the New Jersey office of the HLF, in Odeh's
16 office in 2001, written by a man named Sultan Mahmoud. Let me
17 see if I can find my copy quickly.

18 Sultan Mahmoud writes, "Salaam Alikum.

19 "Enclosed is a modest contribution for our people
20 suffering from Jewish/Christian (Western) crimes in S'allah.
21 Both will be defeated, slaughtered, and kicked out of Islamic
22 lands. This is for relief supplies and weapons to crush the
23 hated enemy.

24 "Thank you, Sultan Mahmoud.

25 "P.S. Today the Western criminals celebrate

1 Thanksgiving, who once helped their ancestors survive harsh
2 winter and stole their land and killed most all natives.
3 Whoever was left lives as effective slaves in reservations.
4 The Islamic Ummah must not let this happen to us. We must
5 destroy Israel and unite and get nuclear weapons to kill the
6 West if they attack our member nations of the Ummah." This was
7 dated in 1996.

8 Why would this individual write this letter to the Holy
9 Land Foundation with a donation unless he knew the true
10 purpose of the Holy Land Foundation, based upon the message
11 that they had been sending out all those years? But the HLF
12 doesn't destroy this letter. I mean, what to you think a
13 charity would do if they saw this? They would probably think
14 he was a nut and tear it up. They kept the letter for five
15 years until they were shut down. They kept his money.

16 They solicited more money from him. Even though it was a
17 form letter, they still solicited more money from him.
18 Obviously Odeh must have sent this letter, or at least the
19 information about Sultan Mahmoud to the Dallas office because
20 it was a Dallas office who sent out the second solicitation.
21 And Sultan Mahmoud sent another donation, which then they
22 accepted and took, because that is who they are.

23 Elbarasse Search No. 3. Please pull that up. Page 21.
24 "The process of settlement is a civilization jihadist process
25 with all the word means." This is under the title

1 "Understanding the role of the Muslim Brother in North
2 America."

3 "The Ikhwan"--who we know is the Muslim Brothers--"must
4 understand that their work in America is a kind of grand jihad
5 in eliminating and destroying the Western civilization from
6 within and sabotaging its miserable house by their hands and
7 the hands of the believers so that it is eliminated and God's
8 religion is made victorious over all other religions."

9 Doctor Esposito said, "Well, I don't think that is Muslim
10 Brotherhood. I think that is the work of a terrorist
11 organization." That is exactly right. That is what we are
12 dealing with here--a terrorist organization.

13 I want to change focus now. We presented our case to you
14 in two halves. It may not have seemed like that, but that was
15 our strategy, our plan.

16 In the first half was everything about the Holy Land
17 Foundation and the Defendants and everything they did here in
18 the United States, and the second half was about what they did
19 with the money they raised and where it was sent and who it
20 was sent to, and that was all the zakat committees and the
21 charitable associations in Gaza and the West Bank that we have
22 talked about.

23 The HLF sent a lot of money that they raised to these
24 zakat committees. And although the Defense has presented
25 evidence that they sent money to later years to Turkey and

1 Kosovo and other places, it doesn't matter. The HLF was
2 created to support Hamas. They always supported Hamas. From
3 the beginning, after these zakat committees were taken over
4 with Hamas, and with regard to the Hamas institutions in Gaza
5 and the West Bank, they started sending money to them, and
6 they continued sending money to them all through the years up
7 until the HLF was shut down.

8 The fact that they made may have branched out and started
9 sending money to other places as well doesn't make them not
10 guilty of the crimes charged, because they continued sticking
11 to their core of supporting Hamas' social wing.

12 Now, the Government presented evidence to you that these
13 zakat committees are Hamas. We presented a variety of
14 evidence coming from different sources.

15 Bruce Hoffman, an expert on terrorism told you that
16 terrorism organizations provide the social services through
17 front groups--that is, organizations that are not publicly
18 identified to the world as part of or linked to a terrorist
19 organization. He said they publicly conceal their identities,
20 but in these communities it is widely known what their
21 connection is.

22 That makes perfect sense. If Hamas is going to take
23 credit, the local community has to know who to give that
24 credit to. But the rest of the world doesn't necessarily know
25 that these committees and social institutions are part of

1 Hamas. And the reason is because if the rest of the world
2 did, there would be that much more pressure to shut those
3 groups down.

4 That is why you are not going to see the Hamas zakat
5 committee. You are not going to see a school that is called
6 the Hamas school. They operate under another name under front
7 organizations. You are not going to see checks or wire
8 transfers from these Defendants that are made out to Hamas.
9 That would be stupid, and it would counter their whole
10 deceptive practice of not letting America know what they truly
11 were about.

12 Doctor Hoffman said that these committees would never
13 reveal themselves to Westerners, like Ed Abington, their
14 witness, for fear of being exposed to the West, to America,
15 and to Europe.

16 Doctor Levitt, who studied Hamas and wrote a book about
17 Hamas financing, told you in the context of the social wing
18 that there were zakat committees out there. And he told you
19 to -- gave you examples of these committees in terms of their
20 relationship to the military wing, and the cover that they
21 gave to the military wing.

22 Avi from the Israeli Security Agency, Avi's mission is to
23 study Hamas. He does so because Hamas' goal is to wipe out
24 his country. It is very important for Avi to be right in his
25 work, because if he is wrong it does his country no good. And

1 as I would hope and expect that you would want people in our
2 government to study our enemies and get it right, so does the
3 Israeli population. They have their government studying
4 Hamas, their enemy, very hard. And hopefully -- and they hope
5 that they get it right.

6 And Avi came here and went into the weeds of these
7 committees. He talked to you about the people who ran them,
8 and how he studied them, and all of the information he looks
9 at--the public source information, through Hamas websites, the
10 statements by the leaders of Hamas, a whole variety of
11 information, who is sending money to these organizations, who
12 these organizations are dealing with.

13 And he was able to determine what zakat committees are
14 Hamas and which ones aren't, and he came here and he told you
15 about several of those zakat committees, the ones that the HLF
16 supported.

17 He also based his testimony on material found at those
18 zakat committees, as well as statements by the Palestinian
19 Authority as to which ones are Hamas and who is Hamas.

20 Now, if you remember, we brought in Major Lior from the
21 Israeli army who came in here and just basically sponsored in
22 the material found at the zakat committees. And in cross
23 examination of him, Defense attorneys, "Where was this stuff
24 found? Could it have been found in a garbage can?" What is
25 the likelihood that all this material, all this Hamas material

1 found in multiple zakat committees was all in the garbage can?
2 Not very likely.

3 We brought you Mohamed Shorbagi, a Palestinian insider
4 who worked with the Defendants raising funds for Hamas.
5 Shorbagi told you about the zakat committees. He identified
6 them Hamas and he identified several of the people who ran
7 them as Hamas. Of course he is going to know because this is
8 where he is from. He is the exact type of local population
9 that Hamas would target when they want certain people to know
10 who they were and certain people not to know. He is the one
11 that they want to know.

12 Agent Burns testified a second time, and she went through
13 and marshaled the evidence the FBI gathered in the course of
14 the search warrant, and she gave you schedules for each
15 committee so you can follow along, you can find that evidence.
16 And that evidence showed you not only that the HLF dealt with
17 these committees, not only who was running the committees, but
18 how within the search warrant material there was a strong
19 indicia of which committees were Hamas. And it all fit. All
20 five of these people, all their testimony fit
21 together--Shorbagi, Doctor Levitt, Hoffman, Avi, and Agent
22 Burns.

23 What did the Defense bring you? They don't have to do
24 anything. They don't have to do anything. But they did.
25 They brought you Ed Abington. Ed Abington admitted, "Yes,

1 Hamas is a social wing, and Hamas runs committees, but he
2 can't tell you which ones they are."

3 All that Ed Abington, who doesn't study Hamas, who didn't
4 know who ran the committees, who doesn't know anything about
5 Hamas' social wing other than that they exist, all he could
6 tell you is that, "I wasn't told that these committees were
7 Hamas." That is it. "I wasn't told they were Hamas.
8 Therefore, in my opinion, they are not."

9 Ed Abington doesn't know squat about these zakat
10 committees, ladies and gentlemen.

11 Now, I am going to go through some of the evidence, and a
12 lot of it is going to be before you and I am not going to go
13 through everything because you will probably run me out of
14 here, but I want to start with the Islamic Center of Gaza.

15 What I want to do is pull up first the Payments to the
16 Islamic Center of Gaza.

17 This one is not in the indictment. But you know what?
18 So what. We presented to you more than what is in the
19 indictment, because we wanted to give you a full breadth of
20 who these people are, and all of the institutions -- not even
21 all, but some of the ones they are dealing with beyond what is
22 the indictment. And this one is an important one because this
23 one is well known as a Sheikh Yassin institution. This is one
24 of those Muslim Brotherhood institutions that was formed years
25 earlier before Hamas was created and then became a Hamas

1 institution once Hamas was created.

2 And I am not going to go through the supporting
3 documentation. But just as a reminder, the column on the far
4 right are the exhibits that support each transaction. So you
5 will have that evidence. This is a guide for you to go
6 through some of the Government evidence. You can take these
7 schedules, go to the exhibit and see that this document
8 supports this transaction. And some transactions and some
9 schedules there is multiple documents.

10 If we can just flip through, the payments started in
11 early I think it was '88, shortly after HLF is formed, and
12 they continue up to 1994. Yes, before Hamas was designated,
13 but the point is this is who they are still dealing with.
14 They gave over \$733,000 to the same organization, run by the
15 same Hamas leader, who when asked by Dallas Morning News
16 reporter about the HLF, "HLF? What is that?"

17 If we can pull up the summary chart, please, Islamic
18 Center of Gaza Summary. That is just a picture of Sheikh
19 Yassin we just threw in there for you. We have got the
20 individuals that Agent Burns was able to identify as being
21 part of this committee from search warrant evidence. And then
22 in the far right is the general committee evidence that goes,
23 not to the individual, but goes to the Islamic Center of Gaza
24 as a whole. And you see on the left is the category of the
25 evidence that she looked at.

1 And if we go to the third page, that under each name is
2 the exact evidence that you can look at when you are
3 deliberating, if you choose, to see the support connecting
4 these people to the committee, to the HLF, and to Hamas where
5 there is anything for that.

6 I want to talk about the Islamic Society of Gaza. This
7 is another Sheikh Yassin institution.

8 If we can pull up the payment schedule, please.

9 These payments also started early on. They continue
10 after Hamas was designated, after the first designation and
11 the second designation. The HLF gave over \$200,000 to the
12 Islamic Society of Gaza.

13 Now, I want to make an important point. If we can pull
14 up Islamic Society Summary, please. I want to emphasize that
15 the evidence in this summary is just the evidence from the
16 search warrant material and the bank records. This is not all
17 the evidence we presented to you. For example, the first
18 individual listed, Ahmad Bhar, Shorbagi testified about him
19 and what Mohamed Shorbagi said after Hamas was founded he was
20 one of the leaders of Hamas. And you know that money going to
21 Ahmad Bhar is going to Hamas. We have seen in El-Mezain
22 wiretaps, of those communiques, identifies Ahmad Bhar as
23 Hamas.

24 The second individual Mahmoud Baroud, if you remember,
25 there is a videotape that we played, InfoCom Search No. 57.

1 This was of the summer camps the HLF supported with the
2 Islamic Society of Gaza. The very last clip, and I am not
3 going to play it, there is an individual who is rattling off a
4 series of names of Hamas deportees to Lebanon. Baroud is one
5 of them.

6 Al-Kuka is an overseas speaker on that HLF Search No. 87.
7 If you go to HLF No. 109, it identifies him as a Hamas member.

8 I want to play a video of a kindergarten ceremony from
9 the Islamic Society of Gaza. This is a video that is in
10 evidence. It was introduced through Doctor Levitt, and it is
11 -- You should consider it only as an aid in assessing his
12 testimony. But he testified about how Hamas ran schools and
13 what went on in some of these schools and the ceremonies. I
14 want to play this. GOI No. 1 is the videotape.

15 Ms. Shapiro played it with Avi as well, and he identified
16 Ahmad Bhar, the same individual that Shorbagi identified, as
17 being in the audience.

18 (Whereupon, GOI No. 1 was played while statements were
19 made.)

20 MR. JONAS: That is a kid dressed up as Nasser
21 Allah, who is the head of Hezbollah, another terrorist
22 organization, and the child next to him was wearing a suicide
23 belt and a gun.

24 This child is dressed as Sheikh Yassin in white, the
25 Hamas leader.

1 Does the music sound familiar? That is one of the Mufid
2 Abdulqader songs.

3 This was going on in 2001. That is the date of this
4 tape, the same time HLF is sending money to the organization.

5 If I can get the elmo, please.

6 This is a picture a still from that video. This picture
7 was taken off the HLF computer in Chicago HLF Search No. 51.

8 There is also a German document, I think we introduced
9 one or two documents from the al-Aqsa foundation in Germany.
10 We call it German Document No. 4. It connects Sheikh Yassin
11 to the same organization, the Islamic Society.

12 Let me talk about the Islamic Charitable Society of
13 Hebron. This one is in the indictment.

14 If we can pull up what we call Payments to ICS Hebron on
15 the screen.

16 And these payments started in late 1991 and they
17 continued on through Hamas' first designation, through Hamas'
18 second designation, up through 2001. HLF sent well over
19 \$1 million to the ICS Hebron.

20 If we can pull the ICS Hebron Summary, please.

21 I want to also show you -- I am going to have the easel
22 and the screen going at once for a reason. What is on the
23 screen is Agent Burns' chart summarizing the evidence taken
24 during the course of the FBI investigation. What is on the
25 board is what Avi testified about. Many of the same people.

1 Avi said these are the key members of the Islamic Charitable
2 Society of Hebron and these guys are Hamas. They are in the
3 key positions.

4 Ms. Shapiro, when she went through who these people are
5 with Avi, put these stickers on there. What these stickers
6 mean is the red sticker means that the person has been
7 identified with the military wing of Hamas in addition to ICS
8 Hebron. The green sticker means that they have been publicly
9 identified as a Hamas member. So you see there is several
10 stickers on some of these individuals. It doesn't mean that
11 the other people aren't Hamas members; it just means that they
12 haven't been publicly identified as such by Hamas themselves.

13 You see Abd al-Khaliq Natshe on the far end? Shorbagi
14 identified him as Hamas. We have not on this chart but Agent
15 Burns' chart Camille Tamimi, who not only was on the ICS
16 Hebron, who was also the HLF representative in Hebron. So he
17 wore two hats. If you remember, I questioned her about people
18 wearing two hats.

19 Shorbagi also said ICS Hebron, besides Natshe being
20 Hamas, he also said that the committee is Hamas, just like Avi
21 said, just like the evidence shows.

22 Now, I am not going to go through everything supporting
23 Agent Burns' chart. You can do that yourself. I do want to
24 talk briefly about some of the material that was taken from
25 ICS Hebron by the Israeli army.

1 If we can pull up ICS Hebron No. 1.

2 This is a document you see in little squiggles and there
3 is a translation there. I am not going to go through it all.
4 But this is a covert document. Avi testified that this was
5 very small and wrapped up and meant to be transported where no
6 one could find it. Smuggled is the best way to describe it.

7 And this document talks about the results of Hamas'
8 internal elections and about how Khalid Mishal was re-elected
9 as the political leader of Hamas. It describes activities of
10 the leadership, including encouraging for the second Intifada.

11 Now, why would ICS Hebron have this if they are just an
12 apolitical charitable association? They wouldn't. They
13 shouldn't. But they did. Because consistent with everything
14 else that we have brought before you, it shows that ICS Hebron
15 is a Hamas organization.

16 ICS Hebron No. 2 is a political pamphlet in support of
17 Hamas.

18 ICS Hebron No. 6, let's pull up that one. A poster of a
19 suicide bomber, a potential suicide bomber. I believe this
20 guy was stopped before he was able to commit his act. Hamas
21 praises him in the poster. I talked earlier about Hamas
22 creating posters of suicide bombers praising them.

23 ICS Hebron No. 7, this is a poster of a suicide bomber
24 who was successful. It has open the top right hand corner the
25 Hamas symbol. This is dated December 7th, 2001.

1 ICS Hebron No. 11. A lot of these you will have the
2 original of, you will have the actual poster yourself. And
3 you will have this as well. This is a kid's frame that has a
4 picture of a suicide bomber in the frame.

5 I want to play for you a video that was taken from ICS
6 Hebron. This is ICS Hebron No. 12. This is another school
7 ceremony, but there is a particular reason why I want to play
8 this one. And this is all -- Go ahead.

9 (Whereupon, ICS Hebron No. 12 was played while statements
10 were made.)

11 MR. JONAS: Another clip, wearing the Hamas
12 headband. These kids probably don't know what they are
13 talking about, what they are saying. This is brainwashing.
14 This is so they can influence them when they have such a young
15 impressionable mind that they will grow up to be Hamas
16 supporters. This is who the HLF is supporting and sending
17 their money to.

18 You have heard about this person, the engineer.
19 Greetings to the military wing of Hamas.

20 One more.

21 Top right. That is who she is talking about.

22 Let's talk about the Jenin zakat committee, if we can put
23 Payments to the Jenin Zakat Committee on the screen.

24 HLF started supporting them in 1991. They continued and
25 continued up through 2001, after Hamas was designated both as

1 a specially designated terrorist and a foreign terrorist
2 organization.

3 If we can put up the Jenin Summary schedule. We have
4 Agent Burns' schedule on the screen. We have Avi's schedule
5 or posters, pictures on the easel. You are not going to have
6 this document when you go back, but you will have the pictures
7 of the people themselves to aid you. We see several of them
8 have the red stickers and the green stickers.

9 We see one of the big leaders is Mohammed Fuad Abu Zeid.
10 He is identified in some of the HLF material as Hamas. He is
11 also one of the HLF overseas speakers on HLF Search No. 87.

12 If we can play just 30 seconds of a clip, I want to go
13 back to that MAYA conference that we played earlier where
14 El-Mezain is raising funds and he talks about Hamas Algeria to
15 Hamas in America, as I mentioned. I mean Hamas Palestine.

16 (Whereupon, MAYA Conference was played while statements
17 were made.)

18 Khalid Mishal, leader of Hamas.

19 Bitawi we heard.

20 Sheikh Mohammad Fuad Abu Zeid right up there we see over
21 the years with Hamas. Just another piece of evidence
22 connecting the individuals to Hamas.

23 In the end, you know, Avi says these people were part of
24 the zakat committee. Agent Burns has it on the evidence that
25 was gathered through the case. They support each other.

1 Shorbagi identified the Jenin zakat committee as being Hamas.
2 There were Hamas items taken from the Jenin zakat committee.
3 We will look at one, Jenin Zakat No. 1.

4 This was taken by the Israeli military. This is an
5 internal Hamas document. Again, this is not something you
6 would expect to see in an apolitical, truly charitable
7 organization. And I just wanted to point out some of the
8 items that was taken there.

9 You had postcards, a box of postcards taken of Sheikh
10 Yassin, of Rantisi, and other Hamas members all seized from
11 the Jenin zakat committee. You had a videotape of a summer
12 camp, a girls' summer camp. I am not going to play that for
13 you. That is Jenin Zakat No. 6. That is the one where the
14 girls wore the suicide belt and pretended to blow themselves
15 up.

16 Nablus zakat committee, if we can put the payments on the
17 screen.

18 THE COURT: Mr. Jonas, you have used three hours.

19 MR. JONAS: Thank you, Judge.

20 I am going to go a little faster now because I am near
21 tend of my time.

22 We have payments to the Nablus zakat committee that
23 continue on from the early '90s up through the HLF being shut
24 down, including after Hamas was designated.

25 Agent Burns' schedule, please.

1 You have the material that she seized. Hamed Bitawi, one
2 of the people that Khalid Mishal just recognized in the MAYA
3 conference. When you go through the pictures taken from the
4 computers, there is one in particular, if I can find it,
5 because I found the one earlier I was looking for.

6 If I can get the elmo, please.

7 A picture of Hamed Bitawi holding the gun, and there is a
8 sign behind them. And I am sure this probably wasn't set up
9 to be like this. You can see it if you see the actual
10 picture. But right where my finger is it is written in green
11 " Hamas" right over his head. Probably a coincidence, but I
12 think it speaks volumes. It says a lot about who this person
13 is. The gun in one hand, the Hamas flags over his shoulder,
14 the Intifada sign, " Hamas" written over his head, and he is
15 the head of the Nablus zakat committee that the HLF gave
16 hundreds of thousands of dollars to.

17 Shorbagi said the Nablus zakat committee is Hamas. You
18 have a lot of Hamas material seized by the Israelis, and you
19 can look through all that if you want--Nablus Zakat No. 1, 2,
20 so on. They are postcards of Hamas members, Hamas military
21 members, key chains of Sheikh Yassin.

22 There was a video -- I am going to play just a few
23 moments of this video, because I just want to show this
24 quickly. Again, this is another thing that you would never
25 expect to find in a true charity.

1 (Whereupon, unidentified exhibit played in open court.)

2 MR. JONAS: That is enough. That is a Hamas
3 military member talking about an operation to kill or kidnap a
4 member of the Israeli FBI, for lack of a better word, found at
5 the Nablus zakat committee.

6 Obviously it all just plays into everything else that we
7 have been talking about how this committee and these other
8 committees are all part of Hamas.

9 Ramallah zakat committee. If you will put up the
10 payments.

11 HLF sent a lot of money to the Ramallah zakat committee
12 from the early '90s up until the time they were shut down.
13 You had the members who were founders of Hamas, as Avi told
14 you--Mahmoud Rumhi, a guy named Mosley, all part of Hamas.
15 You had Shorbagi identifying the Ramallah zakat committee as
16 Hamas.

17 The Palestinian Authority, if we can Palestinian
18 Authority No. 8.

19 This is one of the documents the Israelis seized from the
20 Palestinian Authority. Forget it. It is too big. It
21 identifies -- Palestinian Authority No. 8 and 9 identify the
22 Ramallah zakat committee as being part of Hamas. It all fits
23 with everything else that we have presented here.

24 Tulkarem zakat committee. Payments to Tulkarem, early
25 '90s up until the time HLF shut down. You have the members

1 identified as Hamas by Agent Burns' material and by Avi. You
2 have material taken from the Tulkarem zakat committee. That
3 is all Hamas material--posters, proclamation of the Hamas Izz
4 el-Din al Qassam Brigades for responsibility for several
5 suicide attacks, a poster of Marzook, all Hamas material taken
6 from this committee.

7 Bethlehem Orphans Care Society. I want to talk about
8 this one for a moment. A guy who ran this one was Ghassan
9 Harmas, H-A-R-M-A-S. He was with the Bethlehem zakat
10 committee. That is where HLF's first payments went. He left
11 in 1997 and formed the Bethlehem Orphan Care Society. HLF's
12 money followed him from the zakat committee in Bethlehem to
13 the Orphan Care Society. Why? Because Ghassan Harmas is
14 Hamas. And that is in the HLF's own material. HLF Search No.
15 109 connects him to Hamas. And he was a deportee. And Khalid
16 Mishal identified him as a Hamas leader, according to Avi. So
17 HLF is consistent. A Hamas guy goes, so they go with him.

18 Islamic Science and Culture, HLF sent them a lot of money
19 until 1996. That is Jamil Hamami's operation. We have heard
20 a lot about him. There is a lot of material talking about
21 Jamil Hamami being connected to Hamas.

22 Qalqilya zakat committee, identified as Hamas by Avi.

23 Then there is the Islamic Relief Committee, which was
24 shut down by the Israelis. Avi told you that that was a
25 conduit that got money to other zakat committees until it was

1 closed. This one was actually in Israel itself. And the HLF
2 sent about a million and a half dollars to the Islamic Relief
3 Committee, and then that money gets forwarded on, according to
4 Avi.

5 You have a man named Jamil Mansour who is identified in
6 Marzook's phonebook who is Hamas, and I am going to show you
7 more on him in a moment. I kind of blew through those pretty
8 quickly, but you can do a lot of this leg work yourself when
9 you are deliberating with the help of these schedules that we
10 have given you.

11 What I want to talk about is the items that we have that
12 talk about these committees en masse, and there is just three
13 things I want to hit to show you that not only are these
14 committees Hamas, but the Defendants knew it as well.

15 If we can pull up Elbarasse Search No. 22.

16 This document, which was one the early ones addressed to
17 Shukri Abu Baker, that says, "Dear Brother Shukri," it lists
18 out the committees. "Ramallah: All of it is ours."
19 Bethlehem zakat. Remember, this is where Ghassan Harbas was
20 before he formed the Bethlehem Orphan Care Society. "Seven of
21 eleven."

22 "Jenin zakat committee: Guaranteed, by virtue of
23 Mohammad Fuad Abu Zeid." That is the individual we talked
24 about earlier.

25 I want to point out something. Ed Abington said, "Just

1 because someone is Hamas and just because they are on a
2 committee doesn't make the committees Hamas." Well,
3 apparently Hamas doesn't think so because they are saying by
4 virtue of is how it is guaranteed to be theirs.

5 And it goes on Nablus zakat, Tulkarem zakat, Qalqilya,
6 ICS Hebron, Islamic Science and Culture Society.

7 Now, Agent Burns and Avi both told you that Hamas started
8 infiltrating these organizations over time back when Hamas
9 started, and that by 1991, 1992, Hamas took them over. So
10 this is a representative of that progression of Hamas taking
11 over the committees, because in Philadelphia a few years later
12 they talk about them more affirmatively.

13 And I want to play this clip. This is from Philadelphia
14 Meeting No. 13. We are going to play three clips here. This
15 is Muin Shabib telling the Palestine Committee members, who
16 are in attendance at Philadelphia, about the committees that
17 they are controlling.

18 (Whereupon, Philly Meeting No. 13 was played while
19 statements were made.)

20 MR. JONAS: Your Honor, Can I get a three hour 30
21 minute warning, too?

22 THE COURT: Sure.

23 MR. JONAS: You will have this to read and this is
24 -- Muin Shabib goes on and identifies the committees. He
25 talks about the Islamic Society and Culture, and talks about

1 Jamil Hamami being outed, for lack of a better word, as being
2 Hamas and how that is a problem.

3 Shukri Baker in Philadelphia Meeting No. 5 says about the
4 committees, quote, "Brothers in the occupied territories will
5 pretend to go along with the self-rule and none of their
6 societies will be shut down." Because they are concerned if
7 you read through Philadelphia about the new Palestinian
8 Authority shutting down the Hamas institutions.

9 I want to play for you the tent video. This was taken
10 from the Holy Land Foundation, HLF Search No. 70, what I call
11 the tent video. This is where several members of the zakat
12 committees self-identify themselves as being part of Hamas.

13 (Whereupon, HLF Search No. 70 was played while statements
14 were made.)

15 MR. JONAS: Part of the Islamic Society in Gaza.
16 Part of the Islamic Relief Committee.

17 Mohammad Fuad Abu Zeid. We have seen his name before.

18 Part of the Nablus zakat committee, also one of the
19 HLF -- You can watch this tape. And Agent Burns' schedules
20 identify who is on the tape as per when you go through the
21 committee.

22 All this evidence shows you that not only these zakat
23 committees are Hamas, but the Defendants knew that they were
24 Hamas.

25 And one other thing. Common sense. They were created to

1 support Hamas. Of course that is where their money is going
2 to go.

3 Now, they also talked about not just supporting zakat
4 committees, but you heard Avi talking about special
5 segments--that is the martyrs and the prisoners and how they
6 get special attention. They talked about this in
7 Philadelphia.

8 In Philadelphia No. 11 they said, "You have the issue of
9 sponsoring the family of martyrs. You have the prisoners.
10 But those people have a direct relationship with jihad, and
11 they must get more money and more thought. And there are
12 letters we sent to people. We ought to place emphasis on the
13 families of the martyrs, the prisoners, the orphans, and the
14 families of the wounded."

15 Khalid Mishal also said the same thing.

16 Do we have time for another tape, Your Honor, or do you
17 want to --

18 THE COURT: No, let's take the afternoon break. Be
19 back at five after 4:00.

20 (Whereupon, the jury left the courtroom.)

21 MR. JONAS: You have used three hours and 20
22 minutes. Do you want anymore warnings?

23 MR. JONAS: 3:40.

24 MS. DUNCAN: Your Honor, may I approach real quick
25 with a personal matter?

1 THE COURT: Sure. Come on up.

2 (Discussion at bench, out of the hearing of the
3 reporter.)

4 (Brief recess.)

5 THE COURT: Mr. Jonas?

6 MR. JONAS: Thank you, sir.

7 MR. JONAS: When we broke I was talking about
8 special segments, and I read you where the participants talked
9 about sponsoring the families of martyrs and prisoners and
10 giving them extra attention. This is going to be the last
11 video I will play are for you. I promise. Scouts honor this
12 time. This is a short one of Khalid Mishal that focuses on
13 the martyrs and the prisoners.

14 (Whereupon, unidentified exhibit was played in open
15 court.)

16 MR. JONAS: So we have this special segment, and
17 InfoCom Search No. 96, 97, 98 are letters and documents
18 regarding the HLF where they talk about specifically
19 supporting martyrs and prisoners, sometimes to the exclusion
20 of others. In fact, the Defendant Abdulrahman Odeh supported
21 the son of Yehia Ayyash, the Engineer, when he was killed by
22 the Israelis. And that can be found in InfoCom Search No. 99
23 and HLF Search No. 179.

24 I want to talk briefly about the charges in this case,
25 and they can be broken down into four groups. The first group

1 is giving money to a foreign terrorist organization. That is
2 when Hamas became designated in 1997. The second group is
3 giving money to a specially designated terrorist organization,
4 and SDT, and that is when they became designated in 1995. The
5 third group is money laundering. And the fourth group is
6 filing false tax returns for concealing the payments to Hamas
7 under the program services on line 13 of the tax returns for
8 the HLF.

9 Each group has a conspiracy count and then substantive
10 counts. That means that is the actual crime being committed,
11 whereas conspiracy is a little different. Not every Defendant
12 is in every count, by the way, but you can see that when you
13 get the indictment and the Judge's charge.

14 I want to talk briefly about conspiracy and what that
15 means. A conspiracy is an agreement among two or more people
16 basically to do something wrong, and then one of those people
17 takes a step in furtherance of that conspiracy to achieve
18 their goal. And we call that step in legalese an overt act.

19 You must find there was a conspiracy and you must
20 determine who was part of it. An agreement to be part of a
21 conspiracy does haven't to be in writing. It doesn't have to
22 even be spoken. It can be understood among the members, and
23 you can tell that by their actions.

24 The act to further the conspiracy, the overt act, doesn't
25 have to be illegal in and of itself. In fact, in this case in

1 the indictment the overt acts as listed are wire transfers.
2 Normally wire transfers are fine. But when they are done to
3 further a conspiracy, they are not so fine.

4 In fact, you don't even have to find the overt acts
5 listed in the indictment. You can find another overt act that
6 the Defendants were involved in, as long as it was done to
7 further the aims and the goals of the conspiracy.

8 Every member of the conspiracy is responsible for the
9 actions and statements of other members of the conspiracy, if
10 those actions and statements were made as part of and to
11 further the conspiracy. Basically, in for a penny, in for a
12 pound.

13 A person can join a conspiracy after it started. And the
14 conspiracy did not even have to achieve its goals to be
15 against the law. It can still fail and be a crime.

16 Let me give you a very simple example. We agree to rob a
17 bank. You go out and buy a gun. Let's say we are not
18 successful in robbing the bank. We still have a conspiracy.
19 Going out and buying the gun is an overt act in furtherance of
20 the conspiracy.

21 The substantive counts, that is the actual -- that has to
22 be successful, so the wire transfers -- We have a
23 representative sample of the wire transfers that the HLF sent
24 over to the different zakat committees as the actual
25 substantive count, the actual violation. And you can look at

1 the evidence in this case.

2 Now, these didn't become illegal conspiracies until Hamas
3 was designated, but it is perfectly proper to look at all the
4 evidence that we have presented that predates Hamas'
5 designation to determine if in fact a conspiracy was created
6 beforehand and existed once Hamas was created, and continued
7 to exist after Hamas was created. So that you can look at
8 that background to determine their knowledge and intent from
9 1995 or 1997 forward. If that wasn't permissible, then Judge
10 Solis wouldn't have let us show you all that material.

11 And all the evidence in this case clearly shows that
12 these Defendants engaged in a conspiracy to provide support
13 and money to Hamas.

14 Now, they are going to come up and they are going to talk
15 about the children and all the charity that they have done.
16 And I told you that charity in the hands of a terrorist
17 organization is not a good thing. And I also showed you some
18 videos and pictures, and you can see more of those taken off
19 the HLF computer where you can watch the videos, if you
20 choose, of what they did with children and how they
21 brainwashed children. Some of those videos are HLF Search No.
22 72 and No. 73. I am talking about things that they did here
23 in the United States. Remember that one video I showed had
24 the kids holding the gun.

25 Ms. Hollander talked about in her opening statement "need

1 not creed." But whose need did they fill? The Defendants
2 aided Hamas in taking advantage of the economic situation in
3 the West Bank and Gaza and the suffering of the children in
4 order to achieve their goals.

5 In the Philadelphia meeting, Philadelphia Meeting No. 10,
6 they said, "The national rights, human rights, stuff which
7 will be exploited in order to make you look legitimate while
8 you call on the annulment of the agreement."

9 Philadelphia Meeting No. 12, "The idea is that the
10 approach should be that we take advantage of the children in
11 the community here or the children on the inside."

12 With regard to money given to Oklahoma City and what they
13 did for the bombing victims there, El-Mezain Wiretap No. 2,
14 Defendant Abdulrahman Odeh when he called the Defendant
15 El-Mezain to discuss it said, "It is a good opportunity to be
16 highlighted that we do something in America. Yes, I mean, if
17 we can benefit from the matter." Exploiting human tragedy for
18 their own gain in order to help them support Hamas.

19 I said this before, Shukri Baker said in Philadelphia,
20 "War is deception." And throughout the course of this case we
21 have seen ample evidence of the Defendants deceiving the
22 American public; from minutes of board meetings, one in
23 English found at the HLF, to the same one found in Elbarasse's
24 home which had completely different things in the meetings, to
25 Steve McGonigle going to see Sheikh Yassin, to the

1 declarations and depositions of the Defendants El-Mezain and
2 Shukri Abu Baker where they denied any involvement to Hamas or
3 Hamas speakers or connection to Marzook or connection to the
4 IAP. To the Illa Falistine where Shukri says he supports
5 Hamas. Hamas has come. And then he does his declaration and
6 says, "I reject and abhor Hamas."

7 There was deceit everywhere--one face to the local
8 community that they are trying to raise money to Hamas and one
9 face to the American public. "War is deception," coming out
10 of the mouth of man who says, "I run a charity."

11 For over 13 years the Defendants deceived the American
12 public into believing they were a legitimate charity with good
13 intentions who only wanted to help the poor and the needy,
14 when in reality they were part of a larger plan to eliminate
15 the state of Israel and to take over that area through
16 terrorism and violent acts.

17 Don't let the Defendants deceive you into believing that
18 what they did they did to support widows and orphans. The
19 reality is that by supporting Hamas, they helped create widows
20 and orphans. Find them guilty.

21 Thank you.

22 THE COURT: Thank you.

23 Ms. Duncan?

24 MS. DUNCAN: Thank you, Your Honor. It will take us
25 just a moment to get set up.

1 THE COURT: Sure. Go ahead.

2 MS. DUNCAN: Good afternoon.

3 As Ms. Hollander told you many weeks ago, this case is
4 about charity and helping the desperately needy and poor
5 people of Palestine and other places of the world. It is
6 about the work that Shukri did to help those people survive
7 under the harsh conditions of the occupation.

8 Mr. Jonas said during his closing that evidence of
9 charity in this case is just a distraction, but you know that
10 isn't true. This case has always been about charity; about
11 who received that charity, about why that charity was
12 provided, and about the intent of those including, Shukri Abu
13 Baker, who provided it.

14 This is not about exploiting people's needs for some
15 political agenda. It is about meeting these needs with
16 kindness and the daily necessities of life that we in this
17 country fortunately have.

18 You heard testimony and have seen many exhibits showing
19 the work Holy Land did around the world--in the United States,
20 Kosovo, Turkey, Lebanon, Jordan, and of course in Palestine.
21 You have seen many pictures and a few videos of that work. I
22 will be talking about Holy Land's work throughout my time with
23 you now because it is so important to understanding this case.

24 To begin with, I would like to focus on one of the
25 newsletters Holy Land produced which showed its work, because

1 it provides great insight into Holy Land's values and that
2 work. Of course, you will have all of the exhibits back with
3 you in the room, and I encourage you to look at them
4 yourselves.

5 Let's look at Defendants' Exhibit No. 83. This is the
6 Holy Land's newsletter S.H.A.R.E. from July of 1999. The
7 first page talks about Eid gifts Holy Land distributed to
8 needy people in approximately 13 different countries. You may
9 recall from the testimony of Holy Land's accountant Wafa
10 Ayyash that Eid al-Adha is a major Muslim holiday celebrated
11 at the end of the annual pilgrimage to Mecca. The annual
12 pilgrimage to Mecca is one of the five fundamental
13 requirements of the Muslim faith, which you have also heard as
14 the five pillars of Islam.

15 The regular charitable practices of the Muslim community
16 are demonstrated during Eid al-Adha by the effort to see that
17 no impoverished Muslim is left without food and gifts during
18 this holiday, and Holy Land did everything it could to make
19 sure that never happened.

20 Another of the five pillars of Islam that you have heard
21 a lot about in this case is zakat. As you heard from Doctor
22 Esposito, who Judge Solis accepted as an expert on Islam,
23 zakat is a religious duty upon all Muslims. The exercise of
24 this fundamental religious duty was central to the Holy Land
25 Foundation, not only in terms of its fundraising but also in

1 terms of how it operated. For Shukri and the Holy Land
2 Foundation, providing relief to people in need was not just a
3 job. It was a religious obligation, and it was an obligation
4 they would not violate.

5 You may also recall that former U.S. Consul General, our
6 representative in Jerusalem Edward Abington, testified that
7 all Muslim countries have zakat committees through which the
8 community may deliver its zakat, its charity to the needy and
9 the poor. In those countries, as in the West Bank and Gaza,
10 zakat committees are made up of local volunteers who are
11 familiar with the conditions of the local community.

12 In Palestine as in elsewhere in the Muslim world, there
13 is a ministry of waqf, which you have all heard about, which
14 is the Government agency dedicated to religious affairs, that
15 supervises, licenses, and regulates the zakat committees, and
16 it does so in Palestine. And you will hear more about the
17 ministry of waqf later and about those licenses. But it is
18 important to understand the religious nature of both the Holy
19 Land Foundation and the zakat committees with which it worked.

20 As Doctor Esposito explained, zakat is different than
21 just charity. Because it is a religious obligation, Muslims
22 prefer to provide it directly to the poor or through the zakat
23 committees who operate under the same religious duties as the
24 donors. So the zakat committees are not like the U.N. or
25 other charities.

1 Returning to the Holy Land newsletter on page 2, we see
2 four orphan children for whom the Holy Land Foundation hopes
3 to gain sponsors. You heard a lot of testimony about Holy
4 Land's orphan sponsorship program and how important orphans
5 are to all Muslims. This importance stems from the Muhammad
6 himself was an orphan, and also because orphans and widows are
7 particularly vulnerable under the harsh Israeli occupation
8 that impacts nearly every aspect of the lives. The support
9 for widows and orphans was a central part of Holy Land's work.

10 I would like to talk for a few moments about the Israeli
11 occupation. In his closing argument Mr. Jonas told you that
12 we are not here to decide who is right and who is wrong in the
13 Israeli-Palestinian conflict. He also told you that evidence
14 regarding the Israeli occupation of the West Bank and Gaza is
15 a mere distraction in this case.

16 But while he was correct that we are not here to decide
17 the Israeli-Palestinian conflict, he is absolutely wrong when
18 he said that the actions of Israel against the Palestinian
19 people are irrelevant or mere distractions. Those actions and
20 the history and reality of the occupation color every piece of
21 evidence in this case.

22 As former Consul General Abington explained, the Israelis
23 exercised a hard-fisted occupation. In fact, we would not be
24 in this courtroom today if not for the Israeli occupation and
25 the brutal social and economic impact of that occupation on

1 the daily life of the Palestinian people.

2 It is important to understand that we did not introduce
3 evidence of the occupation simply to blame Israel. We offered
4 this evidence to help you understand the economic need in the
5 West Bank and Gaza that results from the occupation, as well
6 as to understand the context within which Holy Land operated
7 in those areas.

8 We also offered that evidence to help you understand some
9 of the speech that the Government presented as evidence in
10 this case. The Government didn't want you to know that
11 context, the full context of that speech, because as Doctor
12 McDonald's testimony made clear, understanding the context
13 makes the speech less foreign and, quite frankly, less scary.

14 In addition, the Government didn't want you to know the
15 context in which some of the posters and other evidence seized
16 from zakat committees in this case may have been created.
17 Mr. Jonas talked to you earlier about what would a regular
18 charity do. What we are talking about is a Palestinian
19 charity, a charity that lives in the world of occupation. And
20 Mr. Abington told you those sort of posters are found all over
21 the West Bank and Gaza. They do not have the significance
22 that the Government would ascribe to them in this case.

23 The Government would rather have you believe that anyone
24 who expresses anger at Israel or opposition to the occupation
25 is a terrorist who thinks nothing less than the full

1 destruction of Israel. They don't want you to know the facts
2 of the occupation, which are at times so brutal that even the
3 most peace-loving among us are filled with anger.

4 The occupation as you have heard pervades every aspect of
5 Palestinian life; not only for those people who still remain
6 behind in West Bank and Gaza, but also for the Palestinian
7 community in this country and others.

8 As Mr. Shorbagi said to you, talking about the occupation
9 is the daily bread of the Palestinians. They talk about it,
10 they complain about it, they debate it, and they try to
11 support those people who must live under it every day.

12 It is also no wonder that Palestinians around the world,
13 including the Palestinian Americans here, remain dedicated to
14 helping the people who do remain behind and who live with that
15 occupation every day.

16 Someone once said that survival is the greatest form of
17 resistance, and it is this principle, the principle of
18 survival, to which Shukri and the Holy Land Foundation were
19 committed.

20 Returning to Defendants' Exhibit No. 83, the newsletter
21 talks about Holy Land's efforts to provide medical supplies
22 and food to people in need. Now, page 7 includes information
23 on the ambulances and food Holy Land donated in Kosovo to
24 support the refugees in that war-torn country in 1999. And
25 when you read this S.H.A.R.E. you will see the links that the

1 Holy Land Foundation saw between the people who were suffering
2 in Kosovo and the people who are suffering in Palestine.
3 Because contrary to what Mr. Jonas told you during his time,
4 the Holy Land Foundation was about alleviating suffering,
5 helping needy people, and not creating more need.

6 And you will hear more about the work in Kosovo when
7 Mr. Westfall speaks on behalf of Abdulrahman Odeh who is
8 pictured in that newsletter.

9 And finally page 10 shows you the work that Holy Land did
10 here in the United States to provide relief for people
11 impacted by the tornados in Oklahoma and other disasters.
12 Mr. Jonas would have you put this aside and say this wasn't
13 sincere because of a conversation where Abdulrahman Odeh
14 talked about developing a reputation here in the United
15 States. But of course that is what a charity does. A charity
16 first of all reaches out to its own community, and secondly
17 publishes its work in order to bring in more donors.

18 And Holy Land did do quite a bit of work in the United
19 States; not only with the Oklahoma tornados, but the tornados
20 that hit Fort Worth in 2000, the Oklahoma City bombing.

21 They also, as you heard from Mr. Wafa Yaish, they had
22 public service announcements that educated people about the
23 Muslim holiday of Ramadan and brought in speakers to talk to
24 the local community to bridge the gap between the local
25 leaders and that community.

1 And let me add something here. I have a very limited
2 time with you today. I have an hour and a half while the
3 Government has five hours. And obviously I can't cover
4 everything in that little bit of time, but I am going to do my
5 best.

6 You know, there are subjects that Mr. Jonas covered this
7 morning and there are subjects that Mr. Jacks will cover
8 tomorrow afternoon and I can't address all of them, but other
9 Defense counsel will address some of those issues during their
10 closing arguments. So if I miss something, please consider
11 what the other Defense counsel say as it applies to Shukri.

12 And if we all miss something, please think about the
13 general principles that I am speaking about with you today and
14 as they speak with you tomorrow as you consider the evidence
15 we do not have time to cover.

16 And most importantly, as Judge Solis instructed you at
17 the beginning of this case and again this morning, please
18 remember that under our law Shukri is presumed innocent of the
19 charges against him, and the burden is always on that table to
20 prove his guilt beyond any reasonable doubt.

21 So what this case is about is charity, and the central
22 question is whether the Holy Land Foundation delivered
23 humanitarian aid through charities acting on behalf of or
24 under the control of Hamas. What this case is not about are
25 the terrible acts of Hamas.

1 No one here has ever disputed that Hamas is a terrorist
2 organization and that they commit atrocious acts of violence.

3 Although the Government spent much of its case trying to
4 scare you with photos and testimony of bombings and violence,
5 it produced not one single piece of evidence that Shukri ever
6 called for the destruction of Israel. The Government never
7 introduced a single statement by Shukri that advocated or
8 endorsed violence against anyone. They didn't introduce such
9 evidence because it does not exist.

10 Shukri, like all of us, held political views, and you
11 heard some of them during this trial. But his life and his
12 work was about helping people and not hurting them. So please
13 do not be misled by the Government's interjection of violence
14 into this case. No one here is engaging in acts of terrorism,
15 as Mr. Jonas explained to you during his direct. This case is
16 about providing charity. And the question before you is
17 whether Shukri delivered that charity and that aid to the
18 wrong organizations and with a bad intention, and it is my
19 submission to you that he did not.

20 As we have seen and as I will discuss later, Holy Land
21 and Shukri never provided any aid to any charity that the U.S.
22 government has designated as acting on behalf of or under the
23 control of Hamas.

24 Now, the Government has gone to great lengths to
25 manipulate the facts in this case to make it appear as though

1 the Holy Land Foundation was somehow linked to violence. For
2 example, I am sure you all recall that video of the opening of
3 the children's library in Hebron, which is in the West Bank.
4 It is InfoCom Search No. 68. And whoever recorded the opening
5 did so on a tape that contained recordings of unrelated events
6 including disturbing anti-American protests where masked men
7 burned the American flag. Those protests had nothing to do
8 with the Holy Land Foundation or its work. It had nothing to
9 do with the opening of the children's library.

10 In fact, Agent Burns told you that when they found the
11 video it had a note on it that said, "Please make two copies
12 of the opening of the library. There is a protest on this. I
13 don't want it." The only reason that that video was in the
14 Holy Land files is because it contained the opening of a very
15 important project for the Holy Land Foundation, which was the
16 children's library.

17 But although those protests were wholly unrelated to the
18 Holy Land Foundation's work, the Government played those
19 segments before playing the relevant parts, the library
20 opening, in the hopes that the emotions you felt at watching
21 those disturbing images would color how you viewed the Holy
22 Land's work, how you viewed what is relevant, which was the
23 library, and how you responded to the hopeful words that
24 Shukri spoke at that opening.

25 The Government did not care about the library or its

1 opening. It only cared about the demonstration. Without it
2 it wouldn't have even shown you this video because it shows
3 the Holy Land Foundation's work. But Shukri and I both have
4 faith that you will not be misled by this; that you will not
5 allow those kinds of manipulations to prejudice you against
6 him, and we have faith that you will carefully look at his
7 words and his acts in making your decision in this case.

8 In speaking of his words, I would like to read you a
9 brief portion of what he said that day. Remember that he was
10 speaking at the opening of a public library for children in
11 the city of Hebron. This was a really important project for
12 the Holy Land Foundation. And what he said to the public for
13 all to hear, "I am truly happy that I came to my office, and
14 brothers, to you, that you have met on such a great day to
15 inaugurate a new edifice, one of the civilized edifices on the
16 land of Palestine. And on this great day I actually cannot
17 but thank a lot the children of Palestine, our youth and the
18 apple of our eyes, who suffered many years of deprivation. We
19 present this gift to them during this period of rape of
20 civilization so that they keep up with the procession of
21 civilization and go ahead with their lives."

22 And Shukri went on to say, "May this project be built
23 with your efforts, God willing. And we beg nothing of you
24 except to support and to back it up, because our children and
25 because our people and because our land deserve such goodness

1 and generosity."

2 These are Shukri's words and these are his intent--to
3 help the people, particularly the children of Palestine,
4 survive and even thrive despite the occupation and the ongoing
5 Israeli-Palestinian conflict.

6 You may also recall that during his speech on the
7 occasion of the library's opening, Shukri personally thanked
8 the representative of the Palestinian National Authority who
9 appeared on behalf Chairman Arafat. And the article
10 announcing the opening of that library, which is Baker Wiretap
11 No. 15, notes it was opened under the auspices of the Chairman
12 that is the head of the Palestinian government.

13 Please do not let the Government's manipulations distract
14 you from the truth, which is that Holy Land's work was about
15 charity. It was not about violence.

16 In addition to being a about how Shukri and the Holy Land
17 Foundation delivered charity to those who desperately needed
18 it, this case is also about how Shukri sought to make certain
19 that the Holy Land Foundation would never give a single dime
20 to any organization or charity that the United States
21 government or Israel told him not to. The focus of Shukri's
22 work, of the Holy Land Foundation's work, was always the
23 people of Palestine, and Shukri did everything he could to
24 follow the law so that the people who needed his help could
25 count on him. He would never let down the people of

1 Palestine, because he knew that, as Mr. Abington told you
2 here, the people of Palestine cannot survive without charity.

3 From the earliest days of the Holy Land Foundation,
4 Shukri took steps to distance it from politics so that he
5 could be sure that orphans would get their monthly stipends,
6 the children would get their school supplies, families would
7 get food and basic household items, hospitals would get the
8 medical equipment they needed to save lives, and people with
9 physical disabilities would get wheelchairs to help them gain
10 independence.

11 Mr. Jonas talked about how important it is to us to
12 improve America's image in the Muslim world. HLF worked hard
13 to give credit for its work to America. You heard Mr. Yaish's
14 testimony and you saw an example of the types of banners Holy
15 Land used to tell the Palestinian people that the help that
16 they needed had come from the American people. It even named
17 particular states. So the Holy Land Foundation consistently
18 gave credit to America and not to Hamas.

19 Now, though we will talk more about the 1993 conference
20 in Philadelphia in a moment, I want to remind you about what
21 Shukri said about keeping the Foundation separate from
22 politics, because that was a critical theme throughout the
23 entire time he worked with the Holy Land Foundation.

24 If you look at Philly Meeting No. 14 at page 7, and this
25 is the part where Shukri speaks for a long period of time, and

1 I can't read it all but I really encourage you to read that
2 and to hear his words, Shukri said, "I believe that I as a
3 charity organization should not give an opinion or a political
4 judgment at all. I have no relationship with that. I am not
5 a political institution. I want to -- there is a new reality
6 I am dealing with now. It is not my job to attack the
7 self-rule. This is my view. Amicable relationships must be
8 maintained with all parties inside Palestine. This goes
9 without saying, my brothers. We must not put any factional or
10 partisan influence on the Foundation in America as it is the
11 charitable arm of this or that. No. I say that this is
12 wrong, and we must act out of a charitable stand. We must act
13 as an American organization which is registered in America and
14 which cares for the interests of the Palestinian people. It
15 doesn't cater to interests of any specific party. Our
16 relationship with everyone must be good regardless."

17 And you heard other conversations in which Shukri
18 expressed similar intentions.

19 And I want to make a point here about Shukri's words. I
20 implore you to look closely at the evidence of the case of
21 what he said and what he did. There have been a lot of
22 speakers in this case, and the Government has put different
23 speakers next to another speaker from completely different
24 time periods, and I don't want you to be fooled by that. I
25 want you to go back to the evidence, please, and back to the

1 documents and back to the conversations and look at Shukri's
2 words and look at what he did and make your own determinations
3 of what his words meant.

4 Shukri did everything he could to ensure the Holy Land
5 Foundation was working within the bounds of the law, both in
6 the West Bank and Gaza, as well as here in the United States.
7 You heard testimony and saw documents showing that the Holy
8 Land Foundation only worked with charities that have been
9 licensed by the Palestinian national authority or the Israeli
10 government. You will hear more about these licenses later.
11 But for now, remember that Holy Land would not work with any
12 zakat committee or charity association that did not have a
13 license from the appropriate government. And the Foundation
14 kept those licenses in its files.

15 The Governments purported experts tried to minimize the
16 significance of those licenses telling you they weren't worth
17 the paper they were written on. But surely Shukri and the
18 Foundation were entitled to rely on licenses issued by the
19 government of Israel and by the Palestinian National Authority
20 in deciding which organizations that they worked with, and as
21 evidence that these organizations were operating legally.

22 You heard testimony that the Holy Land Foundation knew it
23 was under scrutiny in this country. You heard that as early
24 as 1993 newspaper articles that accused the Foundation of
25 supporting Hamas. You also heard that some of these articles

1 included accusations supposedly made by unidentified
2 government sources. And you heard that in response to that,
3 Shukri hired a former U.S. Congressman John Bryant to help HLF
4 comply with the law and to satisfy the government it was doing
5 so.

6 Mr. Bryant set up meetings with the FBI, the State
7 Department, and the Israeli government to ask them why
8 newspapers were printing these stories and saying that Holy
9 Land was linked to Hamas, and to find out, even more
10 importantly, what the Holy Land Foundation could do to
11 alleviate their concerns. But no one would tell Mr. Bryant
12 who the Holy Land Foundation shouldn't be working with.

13 Had any of these government bodies--the FBI or the State
14 Department or the Israeli embassy--told John Bryant or the
15 Holy Land Foundation not to do business with the zakat
16 committees in the indictment, they would have stopped doing
17 business with them immediately. But no one ever told the
18 Foundation that. And the reason why they didn't is because
19 the zakat committees and the charity associations in the
20 indictment are not controlled by or acting on behalf of Hamas.
21 You have heard evidence in this case that they were religious
22 institutions that operated distinct from any political party
23 in Palestine.

24 And you know that even after Holy Land stopped working in
25 the West Bank and Gaza, U.S. government agencies, including

1 USAID, continued to work with these same zakat committees. We
2 will discuss this more later, but let me give you one example.

3 In Count 9 of the indictment you see the Holy Land
4 Foundation gave \$7,417 to Qalqilya zakat committee in 2000.
5 And in Defendants' Exhibit No. 1074 you see that the United
6 States government donated over \$47,000 worth of medical
7 supplies to the Qalqilya zakat committee five years later in
8 2005. And of course, there are more instances where the USAID
9 supported the same organizations that are listed in this case.

10 And in addition to hiring Mr. Bryant, you heard evidence
11 that Shukri tried to figure out for himself who he could or
12 could not do business with in Palestine. You heard the
13 telephone call in which Shukri said he wanted to see the list
14 of designated terrorist groups so he would know who the
15 Foundation should not work with. It is Baker Wiretap No. 11.
16 It is an important conversation and I urge you to read it.

17 It is dated April 23rd, 1996, which is right during the
18 period when the FBI was wiretapping the Holy Land phones. So
19 they knew about this call. They knew when Shukri it was
20 talking to Mr. Elashi about the new law and the need to follow
21 it.

22 And you remember what Shukri said--"You must abide by the
23 law." He said to Ghassan, "Even if you disagree with the law,
24 you must abide by it. You can speak against it, but you must
25 obey it." I encourage you to listen to that call.

1 Now, Judge Solis instructed you that the Government has
2 to convince you beyond a reasonable doubt that Shukri acted
3 willfully in this case, and Mr. Jonas touched upon that as
4 well. And Judge Solis explained that willfully, we have the
5 instruction here, means to act voluntarily and purposefully
6 with the specific intent to do something the law forbids--that
7 is to say, with bad purpose either to disobey or disregard the
8 law.

9 When you go back to the jury room and try to figure out
10 whether the Government has proven beyond a reasonable doubt
11 that Shukri acted willfully, consider this telephone call,
12 because what it shows is that Shukri had no intention of
13 disobeying or disregarding the law. To the contrary, it shows
14 that he clearly intended to obey it. His purpose was to help
15 the Palestinian people, and he knew that the only way he could
16 do that was to follow the law, and he did.

17 Now, Mr. Jonas told you that you should not believe
18 anything that Shukri says because he has been secret and
19 deceptive in the past. During his closing and throughout the
20 trial, the Prosecution would string together a few Elbarasse
21 or Ashqar documents and then switch to Shukri's declaration or
22 deposition to suggest that Shukri had not been truthful.

23 Now, although I will talk about the Elbarasse and Ashqar
24 documents in more detail in a moment, I want to remind you
25 that the Government introduced no evidence that Shukri ever

1 saw these documents, much less that he agreed with them.

2 I would also remind you that we don't know who wrote most
3 of them, and all of them are dated years before the relevant
4 time period in this case, which is January 23rd, 1995, the
5 date on which Hamas was first designated as a terrorist
6 organization, through December 2001 when Holy Land stopped
7 operating.

8 If you read Shukri's deposition and declaration
9 carefully, you will see that, with two arguable exceptions
10 that I will discuss in a moment, Shukri was truthful in both
11 his sworn testimony and his sworn declaration. And I
12 encourage you to read them carefully because they are Shukri's
13 words.

14 Let's start with the deposition which is Baker
15 Deposition. Shukri gave that deposition in 2003, many years
16 after the events about which he testified, and without having
17 any of Holy Land's records with him. He spoke as a
18 representative of Holy Land in a case where Holy Land, not
19 Shukri, was being sued.

20 In the portions of the deposition the Government chose to
21 show you, Shukri correctly explains that he was one of the
22 Holy Land's founders and he worked for the Foundation from the
23 day it opened until the day it closed, serving at different
24 times as its CEO, its executive director, and its president.

25 And you will hear later from other Defense lawyers that

1 their clients did not have day-to-day management authority
2 over the Holy Land Foundation or did not decide where money
3 would be sent or which projects would be funded, but you will
4 not hear that from me here. Shukri did have such authority,
5 and is proud of his work through the Holy Land Foundation.

6 The Holy Land Foundation, as Ms. Hollander told you, was
7 his love and his life and his hope for the people and children
8 of Palestine, and he and the others who created it created it
9 to support those people and not, as Mr. Jonas said, to support
10 Hamas. And the Government has not presented any credible
11 evidence to the contrary.

12 In his deposition Shukri also explained Holy Land's
13 relationship with the Islamic Association of Palestine and the
14 United Association for Studies and Research. He explained the
15 relationship between IAP correctly as a business relationship,
16 going into detail about it. And contrary to what Mr. Jonas
17 said, Shukri never said HLF and IAP were not affiliated. He
18 said they had a business relationship. And that is true.

19 Nonetheless, the Government wants you to believe that
20 Shukri was deceptive because he failed to say that Holy Land,
21 the IAP, and UASR were once affiliated through the Palestine
22 Committee.

23 But use your common sense. When you read this evidence
24 and when you consider all of the evidence in this case, why in
25 2003 would Shukri talk about the Palestine Committee? First

1 of all, he wasn't asked about it.

2 Secondly, when you read the Elbarasse and Ashqar
3 documents, it becomes apparent that the Palestine Committee
4 was at most a loose affiliation of young men organizations
5 that were concerned about the events in Palestine, and they
6 came together in the late 1980s and the early 1990s to share
7 information and ideas about those events and how best to
8 proceed.

9 Remember that Doctor Esposito explained to you that in
10 these years most college campuses had groups of students from
11 Muslim countries who considered them Muslim Brotherhood
12 members and who shared its values. It appears that the
13 Palestine Committee was merely an extension of this.

14 In his closing Mr. Jonas suggested to you that the
15 Palestine Committee was a big secret, and that its members
16 could not allow the public to know it existed. There is no
17 evidence of this. He said that the Palestine Committee had to
18 conceal its identity because it was Hamas in America. This
19 makes no sense.

20 First, there is no evidence to support Mr. Jonas'
21 characterization of the Palestine Committee as Hamas in
22 America. The evidence shows only that they were Muslim
23 Brotherhood members, and the Muslim Brotherhood has never been
24 a banned organization in this country, so there was no reason
25 for them to hide that affiliation.

1 Secondly, the organizations that purportedly made up this
2 Palestine Committee were themselves public organizations. And
3 the IAP and HLF publicly associated with one another, as the
4 Government's own videos show.

5 And there is certainly no credible evidence that the
6 Palestine Committee controlled the HLF or the IAP at any time,
7 much less in the time period relevant to this case, which is
8 1995 to 2001. The Government has given this committee an
9 importance and prominence in this case that the documents do
10 not support.

11 Although Mr. Elbarasse's house was searched and his
12 documents seized in 2004, the most recent alleged Palestine
13 Committee document introduced in this case is dated ten years
14 earlier in 1994. That is Elbarasse Search No. 19. So
15 although the Government had all these Elbarasse files from
16 1994 to 2004, could not find a single document from that time
17 period to support its theory that the Palestine Committee
18 continued to function after 1994. And if you had, you know
19 they would have presented it to you.

20 And that is why Mr. Jonas had to rely on that 1999 phone
21 call where Omar Ahmed acted as a go-between for Mr. El-Mezain
22 in negotiating with Shukri Abu Baker and the Holy Land
23 Foundation. That reliance on that phone call, which is so
24 clear he is in fact acting as a go-between and nothing more,
25 is how desperate the Government is to make these links.

1 I think that they also introduced to you another phone
2 call with Omar Ahmed in 1999, so it appears the Government's
3 theory is Omar Ahmed is a Palestine Committee of one.

4 And so, as with many of the Elbarasse and Ashqar
5 documents, we have no idea who wrote Elbarasse Search No. 19.
6 It purports to be an agenda for a meeting of the Palestine
7 Committee with notes regarding particular portions of that
8 meeting. And although one of the agenda items was suggestions
9 for developing the work of HLF, the IAP, the UASR, and CAIR,
10 nothing in that document supports the Government's theory that
11 the Palestine Committee supported those organizations.

12 Further, many of the Elbarasse documents upon which the
13 Government relies so heavily are nothing more than proposals,
14 as they say on their face. Yet the Government asks you to
15 rely on these documents as if not only every word is true, but
16 also that Shukri knew and agreed with every word. There is no
17 evidence Shukri saw these documents, let alone agreed with
18 them. And even Avi said that some of the information reported
19 in this documents wasn't accurate in his opinion.

20 For example, Mr. Jonas in his closing and the Government
21 throughout its case repeatedly referred to Elbarasse Search
22 No. 3, which is the explanatory that Mohammed Akram supposedly
23 wrote and which he spoke of eliminating and destroying Western
24 civilization. Mr. Jonas read that portion to you during his
25 closing.

1 What Mr. Jonas failed to note is that the very beginning
2 of this document, which was written in 1991, the author
3 expressly states the document contains his ambitions and
4 challenges that he says he hopes the reader will share with
5 him. That is on page 17 of the exhibit. No evidence exists
6 that anyone else ever agreed with him. And Doctor Esposito
7 testified that the positions stated in this document have
8 never been the position of the Muslim Brotherhood, which is
9 the only organization the Government's evidence suggests is
10 affiliated with the Palestine Committee.

11 But the bigger question is who is Mohammed Akram. We
12 know he had a lot of crazy ideas, but we don't know if anyone
13 else ever agreed with them. And the Government produced no
14 evidence that he ever had any authority over the Holy Land
15 Foundation.

16 So the evidence shows only that the Palestine or Central
17 Committee was a loose affiliation of individuals and
18 organization whose shared an interest in the future of
19 Palestine and its people, so there was no reason why Shukri
20 would have talked about the Palestine Committee in his
21 deposition in 2003. He was not asked about it and had nothing
22 to do with the relationship between the Foundation and the IAP
23 or the UASR during the relevant time period, which in this
24 case is 1995 through 2001.

25 Now, you may recall that several times during this trial

1 during cross examination when one of the Defense counsel would
2 ask one of the Government agents about something they didn't
3 tell you on direct examination, the agents would complain that
4 they hadn't been asked about it. The same can be said of
5 Shukri.

6 And you recall Agent Burns had trouble remembering
7 details of documents about which she testified on direct. But
8 the Government wants you to call Shukri a liar because he
9 couldn't remember some of the specific details of things that
10 happened 10, 12 years before he was asked about them.

11 Before I leave the issue of the Palestine Committee, I
12 want to make two other points. The Government has claimed
13 that the Palestine Committee was formed to support Hamas, but
14 this is not what the documents say. If you look at the
15 documents themselves, you will see that they talk first and
16 foremost about supporting the people of Palestine throughout
17 that time living under the brutal Israeli occupation. And
18 while it is true that some of those documents do talk about
19 supporting Hamas, that is not the focus of most of them.

20 Second, as I said before, there is no evidence that
21 Shukri saw any of these documents or that he agreed with any
22 of the sentiments that were expressed in them.

23 Back to Shukri's 2003 deposition. In the last portion
24 the Government includes in its exhibit Shukri honestly reported
25 Mousa Abu Marzook's donation to the Holy Land Foundation. And

1 as you recall, the Holy Land Foundation also reported this on
2 their tax return. In the call that Mr. Jonas referred to, it
3 was Mr. Abu Marzook's lawyer who denied the donation, not the
4 Holy Land Foundation.

5 Shukri was then asked in his deposition whether Mr.
6 Marzook had any other involvement with the Holy Land
7 Foundation, and the Government claims that Shukri lied because
8 he said no, and because he did not say that in 1988 and early
9 1989, over 14 years before that deposition and 8 years before
10 the phone call with the reporter the Occupied Land Fund had
11 written three checks to Marzook and his wife.

12 You may also recall that the Government tried to tell you
13 that Shukri failed to disclose that Mr. Marzook had written
14 checks to him in the '80s. But as Ms. Hollander pointed out
15 during her cross examination of Agent Burns, those checks had
16 actually been written by Mr. Elbarasse and not Mr. Marzook.
17 And unlike Shukri, who had to testify about events that
18 occurred over a decade earlier, wholly from memory and without
19 access to any Holy Land records which had been seized a year
20 earlier, Agent Burns had all the records when she testified.

21 In addition to Shukri's deposition, the Government also
22 showed you a declaration he wrote in 2002 and said he lied in
23 that, too. I urge you to read the declaration, which is Baker
24 Declaration, because in it Shukri says that he rejects
25 violence and opposes radicalism. I defy the Government to

1 point to a single conversation, fax, or email from the ten
2 years they wiretapped Shukri's home and his office in which he
3 said that he supported or advocated violence. There are none,
4 and that is why you didn't see any.

5 And I want to address one point Mr. Jonas made in his
6 closing argument and which has been somewhat of a theme
7 through the Government's case; namely, this idea that Shukri
8 is a radical fundamentalist who shared Hamas' goal of
9 destroying Israel or its vision for a whole Islamic state run
10 according to the strict principles of Islamic or sharia law.
11 The Government's position ignores the ample evidence in this
12 case that Shukri never spoke of destroying Israel or committing
13 acts of violence against anyone.

14 Further, although Shukri was and is a religious man, he
15 has never advocated for the imposition of sharia law. To the
16 contrary, the evidence in this case shows that Shukri has
17 advocated moderation in this regard.

18 You may recall that in the portion of the conference in
19 Philadelphia that the Government did not introduce into
20 evidence in this case, which we the Defense had to show to
21 you, Defendants' Philly Meeting No. 14, Shukri encouraged the
22 other participants to be open-minded and not to adopt and
23 overly strict view of Islamic law that would block new ideas.
24 He noted that a fundamental part of his work was to be exposed
25 to strange and new ideas, and he cautioned the other

1 participants against relying exclusively on religious
2 principles and considering the worth of those ideas.

3 And although the Government spent a lot of time
4 discussing the meeting in Philadelphia and used some of those
5 transcripts repeatedly during its case and also during closing
6 argument, you may recall it provided those transcripts to
7 totally out of order. The Government knows the correct order,
8 and you can put them in that order yourselves by using the
9 .WAV files as Ms. Hollander did, and you can see those on the
10 top of this transcript we are showing you now. And I
11 encourage you to do that because it is the only way you can
12 understand fully what these speakers were saying. There are
13 frequently conversations that will start on one tape and
14 continue to another, and in order to understand what they are
15 saying you need to read both. When the tapes from the
16 conference are put in the correct order, the Defense exhibit
17 fits right in the middle.

18 And Shukri had some more things to say on this point
19 about being open-minded, but given time restraints I can't
20 repeat them all here.

21 In a 1996 conversation with Ghassan Elashi, Shukri noted
22 that one of the things he values about this country is the
23 freedom to speak one's mind and to share ideas; a value not
24 found in many countries operated under sharia law. In Baker
25 Wiretap No. 11, which we just spoke about, Shukri talked about

1 his fear that America might start criminalizing speech against
2 the Israeli occupation, and says that such a law would be, and
3 I quote, "Just like what happens in our countries, in the
4 Islamic countries, whoever curses the religion in the middle
5 of the street, they put him in jail, in some of the Muslim
6 countries, or he who declares he is not fasting during
7 Ramadan, they put him in jail. We might reach a stage in
8 America in which they tell you, 'If you criticize Israel
9 openly, we will put you in jail.'"

10 And later if he tells Ghassan, "Is America going to turn
11 into South African or turn into Israel or something else? But
12 like they say, thank God we are in America. Thank God you are
13 an American. It is still just and it is still -- as much as
14 things exist good things will still be here."

15 So I ask you again, when you judge Shukri and you ask
16 yourself what Shukri believes and what Shukri intends, look at
17 his words and his actions. Look at the people he chose to
18 represent the Foundation in Gaza, including the woman he sent
19 there as the face of Holy Land's American office Dalell
20 Mohammed, an uncovered woman. This is Dalell delivering
21 wheelchairs in Gaza. It is Defendants' Exhibit No. 662.

22 And remember what Wafa Yaish told you. The Holy Land
23 Foundation was an open office, and the Foundation never
24 imposed any religious or dress requirements on its employees,
25 nor did it hire only Muslims. While it is true that the Holy

1 Land Foundation stayed true to the Islamic duty of zakat or
2 charity, it was an American charity run consistent with and
3 according to American law.

4 Now, in his declaration Shukri described in 1993
5 conference in Philadelphia that we have heard so much about
6 during this trial. As Mr. Jonas showed you, he described it
7 as a meeting of Islamic intellectuals, academicians, community
8 leaders, and representatives of American Islamic
9 organizations. He said that it was not a meeting of a
10 particular organization. He also said that it was an
11 opportunity for everyone to speak their minds.

12 Now, Mr. Jonas claimed this was a lie, that the
13 conference in Philadelphia was a meeting of the Palestine
14 Committee, but when you look at the evidence that is simply
15 not true. Contrary to what Mr. Jonas said during his closing,
16 Omar Ahmed did not say that the conference was a meeting of
17 the Palestine Committee. He said that it was a meeting called
18 for by the Palestine Committee. There is a difference between
19 these two.

20 And in looking at Philly Meeting Summary, which Mr. Jonas
21 showed you, it is clear that even if you credit all the
22 Elbarasse and Ashqar documents in this case, many of the
23 participants at that meeting were not members of the Palestine
24 Committee at all, but were members of American Islamic
25 organizations or community leaders, exactly as Shukri

1 described it.

2 But even more important is that Shukri's description of
3 this meeting as a place where everyone spoke their minds was
4 absolutely true. While Shukri and others did speak about
5 opposing or derailing the Oslo Accords, they also spoke of
6 working within the new agreement. They debated both sides of
7 the position. And some participants even talked about adding
8 segments to conferences and festivals where the community at
9 large could debate the positions and present their different
10 points of view, and the impact of the accords on the
11 Palestinian people.

12 So yes, during the conference in Philadelphia the
13 speakers did express their opposition to Oslo, explaining that
14 they felt it offered peace without justice, and expressing the
15 fear that it would cause the world to forget about the
16 Palestinian people. They would forget -- the world would
17 forget about the suffering of the people in the refugee camps
18 for whom the accords offered little hope of return home.

19 And yes, some of the participants expressed support for
20 Hamas, which at that time, as you heard during Doctor
21 McDonald's testimony, was a relatively new voice in the
22 Palestinian-Israeli conflict. But the participants also spoke
23 of adapting to the new environment, of the need to continue to
24 operate within the law. That was always a theme. That was
25 always a promise that the Holy Land Foundation would operate

1 within the law.

2 And as Shukri said many, many times at that conference,
3 the Holy Land Foundation was not and could not be in politics.
4 And this was a petition again that he maintained and adhered
5 to throughout his entire time working for the Holy Land
6 Foundation.

7 Just because Shukri held political views does not mean
8 that the Holy Land Foundation was a political charity. Shukri
9 did everything he could to separate the two.

10 I would like to talk a little bit briefly about the
11 participants' use during the Philadelphia meeting of the word
12 Movement. Now, you have heard a great deal about this word,
13 and there has been a great debate about what it means in
14 different contexts. And what you have heard pretty
15 consistently, both from the Government and the Defense
16 witnesses, is that what Movement means depends on the
17 circumstances and you have to read the whole document. The
18 word Movement does not always mean Hamas.

19 We have seen that the Muslim Brotherhood is sometimes
20 referred to as an Islamic Movement as the Muslim Brotherhood
21 movement or just as the Movement, and we have seen that Hamas
22 is sometimes referred to as the Islamic Resistance Movement or
23 just the Movement, and we heard that there was an organization
24 in Israel that is known as the Islamic Movement. So one has
25 to know the context to determine what is meant, so please

1 decide for yourself what the participants in Philadelphia
2 meant when they said Movement.

3 Now, as I mentioned before, there were two places in
4 Shukri's declaration where he was completely not forthcoming.
5 The first is where he said categorically that he had never had
6 any connection to Hamas. The second is where he described his
7 use of the word Samah instead of Hamas at the 1993 conference
8 in Philadelphia as a whimsical play on words.

9 However, what these two statements show is not that
10 Shukri supported Hamas during the relevant time period in this
11 case, 1995 through 2001, but simply that Shukri was afraid of
12 saying that he had attended conferences at which people sang
13 songs in support of Hamas in 1990 and 1991, long before Hamas
14 was designated, before the suicide bombings that you heard
15 about, when the political situation was different. They show
16 that he was afraid of saying that people sang about Hamas at
17 the same conferences where HLF raised money for the poor and
18 needy of Palestine, or afraid to say that -- or wrote about
19 Hamas in the same newsletters in with Holy Land advertised, or
20 that he wrote or said things in the late 1980s or early 1990s
21 that could be considered as supportive of Hamas.

22 And you may have noted that when Mr. Jonas showed you
23 Shukri's poem in Illa Falistine No. 1, he showed you only the
24 byline that says "Hamas," but he did not read you the poem
25 itself. I encourage you to do so.

1 Shukri was afraid to admit that even before Hamas had
2 been designated a terrorist organization, he had been afraid
3 to say the name Hamas and had said Samah instead. It is no
4 wonder that Shukri was fearful in 1993, fearful of Israel. He
5 had seen several years of the Intifada and he knew that he and
6 others in HLF would be traveling to the West Bank and Gaza.
7 And he also knew that Israel could and had detained
8 Palestinians without charges for long periods of time.

9 And it is not surprising that he was still afraid when he
10 gave the deposition and wrote the declaration many, many years
11 later, because by that time HLF had been threatened and
12 slandered and hounded for years. He was afraid of being
13 prosecuted on the basis of things that he said over ten years
14 ago, things taken out of context. He was afraid of being in
15 this very chair, even though political dialogue is not illegal
16 in this country. Even Agent Miranda reluctantly admitted
17 that.

18 And I defy the Government to point to any evidence that
19 the Holy Land Foundation or Shukri ever asked a donor to give
20 money to Hamas. In fact, you heard evidence of a phone call
21 between Shukri and Abdulrahman Odeh in 1999 in which Shukri
22 repeatedly and emphatically told Mr. Odeh not to work with a
23 man named Deeb Anees who has been known to raise funds for
24 Hamas. And during that same phone call Shukri refused to
25 accept money raised by Deeb Anees for the benefit of the

1 Palestinians.

2 Though the Holy Land Foundation had worked with Mr. Anees
3 in the past, this conversation shows that Shukri refused to
4 continue to work with him once he learned that Mr. Anees
5 raised funds for Hamas. That conversation is Baker Wiretap
6 No. 24.

7 Now, as the instructions in this case tell you, Shukri
8 can never, ever be prosecuted for expressing a political
9 viewpoint, or on the basis of who he associates with, or even
10 his political beliefs. That tramples the First Amendment of
11 the U.S. Constitution into the dust. The First Amendment
12 guarantees to all persons in the United States the right to
13 freedom of speech, freedom of religion, and freedom of
14 association.

15 The Government wants you to believe that people never
16 change; that the world in 1991 was the same world as in 1997
17 or 2001; as though Hamas was the same or as the people felt
18 the same way about Hamas. That is wrong, and you heard from
19 Doctor McDonald that that is just simply not true. And I ask
20 you to go through the evidence in this case and that you pay
21 close attention to the speakers and to the dates and to the
22 words.

23 In fact, on this point consider the case of Sheikh Jamil
24 Hamami who we heard so much about--a founder of Hamas who the
25 U.S. brought here as a distinguished guest in 1999 after he

1 left Hamas. People change.

2 And also remember, even if you think that Shukri lied
3 about something, he is not on trial here for what he said, but
4 for providing material support to Hamas, and that is what the
5 Government has to prove and that is what it has failed to do.
6 Judge Solis has instructed you that the Defendants are not on
7 trial for any offense or crime not alleged in the indictment,
8 and Shukri is not charged with lying.

9 During the meeting in Philadelphia, the participants
10 spoke a lot about the Oslo Accords, and you have heard a lot
11 of testimony here. And they talked about what the accords
12 might mean to Palestinian people. The Government wanted you
13 to believe that most of the people who opposed Oslo were Hamas
14 members, their supporters, or other terrorists, but this
15 simply is not true.

16 Doctor Levitt had to admit that others opposed Oslo, but
17 he kept trying to imply that the Israelis who opposed Oslo
18 were a small minority of radical Jews, but that also isn't
19 true. As we learned from former Consul General Abington, he
20 was actually in Jerusalem representing the United States right
21 after Oslo. People opposed the Oslo Accords for a variety of
22 reasons. He explained that Oslo passed in the Israeli
23 parliament, called the Knesset, by only two votes. That is
24 not a small minority.

25 And many Palestinians opposed it because they thought

1 Palestine gave away too much land or too much control to
2 Israel. Still others opposed it because the accords are not
3 precise about the creation of the Palestinian state and
4 contained nothing to stop the confiscation of Palestinian land
5 for Israeli settlements. This included Christians as well as
6 Muslims living in Palestine and their families throughout the
7 world.

8 And some people, including Shukri, also opposed it
9 because he feared that the world would forget about Palestine,
10 and that the Palestinian people would not get the resources
11 they needed to survive. As he said in Philadelphia, he feared
12 that the donors he and HLF relied on to help the Palestinian
13 people would send their money elsewhere.

14 And you can look at the maps we introduced in this case,
15 which are Defendants' Exhibit 1013 and 1423 and see for
16 yourself why so many people on both sides opposed Oslo.

17 And finally, before leaving the topic of what Shukri said
18 at the Philadelphia meeting, I would like to address briefly
19 his statement "War is deception." He is not the first person
20 to say that and he is not the last. It has come down to us
21 through history. He is not the first person that said
22 "politics are deception." Political leaders say that
23 frequently. You can probably find it in newspapers almost
24 every day.

25 But as Shukri noted during that conference, this is

1 political talk. Political talk. You have to separate those
2 from actions. And Shukri did separate politics from his
3 actions. He made that clear when he said at the 1993
4 conference he would not involve the Holy Land Foundation and
5 politics, and when he instructed the Holy Land staff later not
6 to use Holy Land computers to view political websites.

7 And he made that clear when he hired people, including
8 lawyers like former Congressman John Bryant and accountants
9 like Mr. Yaish and the independent auditors, to keep Holy Land
10 within the law and maintain financial accountability and
11 responsibility to its donors and the people it served.

12 Which brings me to the issue of Holy Land's
13 recordkeeping. Bruce Hoffman told you about how lack of
14 transparency and financial dealings is one of the hallmarks of
15 a terrorist organization. And the Government did what they
16 could to try to make Holy Land Foundation fit into that mold.
17 But they did not succeed, because in fact the Holy Land
18 Foundation's records were completely transparent, meaning they
19 were completely open.

20 For example, the Government sought to portray the foreign
21 accounts used by Holy Land's Gaza and West Bank offices as
22 secret. But as Mr. Westfall pointed out during his redirect
23 of the Holy Land's accountant Mr. Yaish, the Government knew
24 that the accounts weren't secret because the Holy Land files
25 were filled with information regarding those accounts and the

1 Government had had those Holy Land files and records since
2 2002.

3 And as Mr. Yaish stated, every bank transfer was
4 confirmed by telephone, and as we now know, the FBI could
5 listen to all those telephone calls starting in the mid '90s,
6 which means the Government knew where Holy Land's money was
7 going at the time it was being sent.

8 The Foundation didn't ever throw their records or bank
9 records away. They had project reports and bank records going
10 back to at least 1991. They kept these records even though
11 the IRS only required them to keep them for three years, as
12 IRS agent Dawn Goldberg testified.

13 Now, Agent Burns ordered up all these financial records
14 from foreign banks, but all those foreign records did was
15 substantiate the Holy Land records the Government had for
16 years, both from the 500 banker boxes it seized from the Holy
17 Land offices and from the years of wiretaps during which the
18 FBI captured an untold number of conversations between the
19 banks and Holy Land employees confirming wire transfers to the
20 very foreign accounts the Government claimed were secret.

21 In fact, you may recall that there were many transactions
22 in Agent Burns' financial charts for which there were no
23 foreign bank records, only Holy Land records. And while it
24 may be true that there were also some foreign financial
25 records for which the Government could not find corresponding

1 Holy Land records, when you look at the Government's summary
2 charts and the records as a whole, it is clear that these
3 foreign accounts were never secret and Holy Land did nothing
4 to conceal them.

5 Second, the Holy Land Foundation had a formal system of
6 accounting. You saw the monthly financial statements that
7 Mr. Yaish created as well as the supporting documentation he
8 kept. Mr. Yaish showed you how one of the social services
9 transactions fit into that statement. You have seen all the
10 lists and how they all add up.

11 Mr. Yaish and Agent Burns told you that the Holy Land
12 Foundation kept thousands and thousands of pages of financial
13 and project records, and every scrap of this paper has the
14 HLDL number on it, which are numbers the Government put on all
15 the documents it took from Holy Land. So they knew about
16 those records. They had them since 2002.

17 Yet even though the FBI met with Mr. Yaish on numerous
18 occasions and he answered all their questions, they never
19 asked him to explain the records.

20 The formal, accurate financial system did not fit their
21 theory. They would rather manipulate the facts to falsely
22 paint the HLF as a shadowy front organization, rather than
23 know the truth or have you know the truth.

24 And in addition to those monthly statements, the HLF had
25 annual audits, full audits that took over a month to complete

1 and were done by an independent firm, Pingleton Howard &
2 Company, from Frisco, Texas, and you can see an example of
3 these audited financial statements in Holy Land's 2000 annual
4 report, which is Defendants' Exhibit No. 67. And Mr. Yaish
5 testified that the Holy Land Foundation had an open-book
6 policy, so that anyone who wanted to see the documents
7 underlying those reports had only to ask.

8 The Government also said that HLF was hiding its foreign
9 accounts because they were not listed in the Holy Land
10 Foundation's annual reports. That is silly. Nobody would
11 list their bank account information in a public financial
12 report. And when you look at the Form 990s the Holy Land
13 Foundation filed, all of which are in evidence in this case
14 either as Defense exhibits or Government exhibits, you will
15 see that those forms do not even ask for information regarding
16 bank accounts, much less foreign bank accounts.

17 The HLF financial records are transparent. Shukri hired
18 Mr. Yaish specifically to make them so. And the Holy Land
19 Foundation's project and program information was also
20 transparent, including its orphan records. The money the Holy
21 Land Foundation collected from its donors when for specific
22 projects and specific orphans and families, and every bit of
23 it is substantiated by lists, photographs, videotapes,
24 signature sheets, and final reports. Every single dime is
25 accounted for.

1 And consistent with his reputation, as told to you by
2 Mr. Abington, the records show that the Holy Land Foundation's
3 overhead was so low that almost every single dime went to help
4 those in need around the world.

5 This case is primarily about funding for the zakat
6 committees in the West Bank. That is what Shukri is charged
7 with in this indictment. That is the central issue. Yet with
8 all the resources at its disposal, the Prosecution did not
9 bring to this courtroom a single person who had ever set foot
10 in a zakat committee in the West Bank. Will all the resources
11 at its disposal, the Government did not bring to this
12 courtroom a single person who had spoken to a single
13 Palestinian citizen in the West Bank about these zakat
14 committees.

15 So let's talk about who the Government did bring to tell
16 you about the zakat committees to try to convince you that you
17 should convict Shukri for the charity and other relief he
18 provided on behalf of the needy people of Palestine through
19 these committees.

20 First they brought Matthew Levitt. Matthew Levitt claims
21 to be an expert on Hamas and funding for zakat committees, but
22 he has only spoken to two members of Hamas and they were in an
23 Israeli prison. Who knows why they were even willing to speak
24 to him. What did they get in return? And he has never been,
25 never even been to a zakat committee. He doesn't even read or

1 speak Arabic. Is that the best the Government can do?

2 Doctor Esposito, who we brought to you to talk about
3 Islam, was not willing to say anything about zakat committees
4 because he had never been to one. But Doctor Levitt did not
5 think it important to talk to the very people who run the
6 zakat committees or to ask a single Palestinian citizen about
7 the reputation.

8 And how about Avi? There he is in Tel Aviv, Israel, just
9 a few miles from the West Bank, and he has not visited a
10 single zakat committee either. He has not talked to a single
11 Palestinian about the zakat committees. He doesn't even rely
12 on any polls or surveys of the Palestinians.

13 Only one person in six weeks of trial actually set foot
14 in a zakat committee, and that was former Consul General for
15 the United States Edward Abington. And yet it was not the
16 Prosecution who brought him here. It was the Defense. And
17 although he was the only witness in this case who actually
18 visited a zakat committee, Mr. Jonas says he doesn't know
19 squat. That is for you to judge.

20 Mr. Abington spent many years in Israel. He visited
21 several of the zakat committees as the United States
22 representative to the West Bank and Gaza, and he toured the
23 el-Razi Hospital that the USAID funded in 2002 after the
24 destruction wrought by Operation Defensive Shield.

25 He has been to signing ceremonies when the zakat

1 committees received funds from the U.S. government. He has
2 worked with the U.N. and he has worked with USAID, the
3 organizations that actually deliver aid to the Palestinians,
4 including aid that American taxpayers provide.

5 He has sat in cafes and talked to the Palestinian people
6 about their concerns and their opinions. He has visited the
7 refugee camps where the children and grandchildren of those
8 who fled when Israel was created live and work and go to
9 school.

10 And he told you that Holy Land was known as a Palestinian
11 American charity working in the West Bank and Gaza, and that
12 it had a good reputation for delivering charity in that area.

13 Mr. Abington speaks Arabic. He spent lots of times with
14 the former Fatah leader Yasser Arafat, and with the current
15 Fatah prime minister Mr. Fayed. He even visited an orphanage
16 with Arafat.

17 The Government wants you to believe that Mr. Abington
18 didn't have enough information and that USAID, which provided
19 medical supplies to at least three zakat committees through
20 its contracts with Care, and as Avi said, through another U.S.
21 organization called ANERA, still didn't have this information
22 as late as 2006. Yet Avi claims all of his information was
23 publicly known in Palestine at least ten years before that,
24 and he admitted that the U.S. and Israel actually share
25 intelligence information.

1 Mr. Abington himself received daily briefings from the
2 U.S. government, and not once did anyone ever tell him that
3 any of the zakat committees or charities listed in the
4 indictment operated on behalf of or under the control of
5 Hamas. Not once. So what information was not available to
6 him? And you can see here a comparison of what Mr. Abington
7 had and what Mr. Avi had.

8 In all the years that he worked in Israel and Tel Aviv
9 and Jerusalem for the United States government, for the
10 Palestinian Authority as a consultant for them, from the 1970s
11 through 2006 no one in the U.S. government or the Palestinian
12 government, or on the streets and cafes of Palestine, ever
13 told Ed Abington that the zakat committees at issue in this
14 case were controlled by Hamas. So who do you believe?

15 Please look at the instructions Judge Solis gave you
16 regarding the credibility of witnesses. As he told you, you
17 are the judges of the credibility or believability of each
18 witness.

19 In evaluating the testimony of Doctor Levitt, Avi, and
20 Mr. Abington, please keep in mind the questions posed by the
21 instruction Judge Solis gave. Did the person impress you as
22 honest? Did the witness have any particular reason not to
23 tell you the truth? Did the witness have a personal interest
24 in the outcome of this case?

25 Now, as Mr. Jonas told you, Avi worked for Israel and his

1 job and his goal was to protect Israel; not to search for the
2 truth, and not to provide justice for anyone, and particularly
3 not for these Defendants here.

4 Edward Abington, on the other hand, was a U.S.
5 representative in Jerusalem. He had no dog in this fight. He
6 had a long-standing relationship with the Palestinian National
7 Authority, which, as you heard, during the relevant time
8 period was run by the PLO, the major party which was Fatah,
9 the enemy of Hamas.

10 The other questions are did the witness have any
11 relationship with either the Government or the Defense. That
12 answer is clear when you compare the two witnesses. Did the
13 witness seem to have a good memory? Did the witness have the
14 opportunity and ability to understand the questions clearly
15 and answer them directly? Did the witness' testimony differ
16 from the testimony of other witnesses.

17 And as to Avi, Judge Solis has added that you may
18 consider the fact that he testified under an assumed name,
19 meaning that the Defense could not investigate his backgrounds
20 or his credentials, we had to take his word for them, in
21 determining the credibility and weight you wish to give to his
22 testimony.

23 Now, you have heard evidence about the Holy Land
24 Foundation's work in both the West Bank and Gaza. Most of the
25 evidence and all of the charges in the indictment relate to

1 the zakat committees in West Bank. However, because some of
2 the evidence pertains to institutions in Gaza, I would like to
3 spend a little time discussing that area and Holy Land's work
4 there.

5 The Government introduced considerable evidence related
6 to three organizations in Gaza--the Islamic Center, the
7 Islamic Society, and al-Salah Society. And both the
8 Government and Defense witnesses told you these organizations
9 had a reputation for being associated with Hamas.

10 The Islamic Center and Islamic Society, as you heard,
11 were both started by Sheikh Yassin, one of the founders of
12 Hamas. And the al-Salah Society and its director were
13 designated as specially designated terrorists in 2007, six
14 years after the Holy Land Foundation closed, based on
15 allegations that the al-Salah Society acted on behalf of
16 Hamas.

17 But although the evidence shows that the Holy Land
18 Foundation had a relationship with these organizations in the
19 late 1980s and early 1990s, the evidence also shows that in
20 1994 the Holy Land Foundation opened its own office in Gaza
21 and worked primarily through it.

22 THE COURT: You have used one hour, counsel.

23 MS. DUNCAN: Thank you.

24 If the Holy Land Foundation's goal and purpose was, as
25 the Government suggests, to support Hamas, it would not have

1 opened its own office to work directly with the Palestinian
2 people. It opened its own office because the purpose of the
3 Holy Land Foundation was always to support the Palestinian
4 people and to provide desperately needed charity as
5 efficiently as possible and in full compliance with the law.

6 Now, you heard Edward Abington testify that Gaza is among
7 the poorest and most crowded places in the world. Eighty
8 percent of the population still live in the refugee camps like
9 this one.

10 You may recall that I showed you pictures of the people
11 who worked at the Holy Land Foundation's Gaza office out in
12 the field, and you will see some other evidence and reports
13 from them in the evidence that is going back with you to the
14 jury room.

15 You see this? This is Holy Land employee Anees
16 delivering essential household items to a Palestinian family
17 in Gaza.

18 And this is Mr. Abu Muharam delivering food to a person
19 who, as you can see has, only a blanket for a door.

20 The Government ignored the work of the Holy Land
21 Foundation's Gaza office during their case. Instead, they
22 focused on the evidence that the HLF worked with those other
23 charities primarily before Hamas was designated; in the case
24 of the Islamic Center, all of the evidence showed prior to the
25 time that Hamas was designated and before the time period that

1 is relevant to this case, and they did everything they could
2 to exaggerate those relationships.

3 For example, on the schedule Payments to Islamic Society,
4 the Government included an entry purporting to reflect a
5 \$75,000 transfer from the Holy Land Foundation in Texas to the
6 Islamic Society on August 23rd, 2001. But when you look at
7 the underlying records, it becomes clear that Holy Land
8 Foundation did not transfer money to the Islamic Society on
9 that date. Rather, what the underlying documents show is that
10 Holy Land Dallas sent \$75,000 to Holy Land Gaza for a backpack
11 project, and Holy Land Gaza in turn distributed just 15 of
12 these backpacks to needy children through the Islamic Society.
13 So the Government's chart is wrong, and the amount of money it
14 shows being transferred from Holy Land to the Islamic Society
15 is artificially inflated. That is another manipulation of the
16 facts.

17 Which brings me to an important point. Judge Solis has
18 instructed you that charts and summaries are valid only to the
19 extent they accurately reflect the underlying supporting
20 evidence. You should give them only such weight as you think
21 that they deserve. This chart is inaccurate, as is the
22 Government's chart for al-Salah Society, which Ms. Hollander
23 pointed out during her cross of Agent Burns.

24 It is critically important that you look at the documents
25 underlying these charts, in fact all of the Government's

1 charts and summaries, and if you cannot confirm their
2 accuracy, you should give them no weight in your
3 deliberations.

4 The same is true of the Government's demonstrative, which
5 you will not have in the jury room but which you saw during
6 the course of the trial. You may recall during Agent
7 Miranda's testimony the Government introduced a demonstrative
8 that it claims showed Mousa Abu Marzook ordered security for
9 the Holy Land Foundation. But as Ms. Hollander showed you
10 during her cross examination of Agent Burns, the documents
11 said no such thing.

12 Ms. Hollander showed you the underlying document
13 Elbarasse Search No. 15 right here, and showed you that
14 Marzook's name doesn't appear anywhere on that document, and
15 showed you that the person who wrote it merely requested that
16 Izzat Mansour visit to the Holy Land office to take the
17 necessary measures regarding security. And Agent Miranda had
18 to admit that the Government had no evidence that Mr. Mansour
19 ever did visit the Holy Land office, nor could Agent Miranda
20 provide any evidence that the check in his chart, which you
21 see here, had anything to do with providing security.

22 Additionally, when you look at Elbarasse Search No. 15,
23 you will note that the Government produced no evidence that
24 the Holy Land Foundation implemented any of the activities
25 that were set forth in that letter.

1 So you cannot rely on the Government's charts, its
2 summaries, or its demonstratives. You must look to the
3 underlying documents to the make your decision in this case.

4 Finally, you have heard a lot of evidence about the list
5 the United States Treasury Department maintains of specially
6 designated terrorists and foreign terrorist organizations.
7 Defendants' Exhibit No. 963 is a list as it existed on June
8 29th, 2001, about two weeks after the last transaction charged
9 in this indictment. You have heard that none of the zakat
10 committees or charitable societies named in the indictment
11 have ever been on this list.

12 To this day, the U.S. government has never designated a
13 single one of those zakat committees or charitable societies
14 as a terrorist organization, nor has its designated a single
15 board member or officer of any of those zakat committees and
16 charitable organizations. Not one.

17 Why is that important? Why is the list such a crucial
18 piece of evidence, and why has the Defense spent so much time
19 talking to you about it? Because the Treasury Department list
20 is how the U.S. government tells everyone who it considers to
21 be a terrorist. It is how the Treasury Department and the
22 United States government tells businesses and charities, like
23 the Holy Land Foundation, and everyone else, who they can no
24 longer deal with. It is how the Government criminalizes
25 American donations to a particular organization.

1 You heard from Agent Miranda and again from Mr. McBrien
2 of OFAC that in August of 2007 the Treasury Department
3 designated a charitable society in Gaza, the al-Salah Society,
4 which we just spoke about, as a terrorist organization, and it
5 also designated its director Ahmed al-Kurd at the same time.
6 And look bat what the Treasury Department official in charge
7 of the designation said about it. He said, "Today's action
8 alerts the world to the true nature of al-Salah and cuts it
9 off from the U.S. financial system." This is Defense Exhibit
10 No. 1052.

11 And here is what Matthew Levitt said about the same
12 designation, and this is Defense Exhibit No. 1054. He said,
13 "The designation criminalizes American donations to al-Salah
14 and officially informs banks and donors of the organization's
15 ties to and activities on behalf of Hamas."

16 Think about it. According to the head of OFAC, the part
17 of the Treasury Department that deals with terrorist
18 financing, a terrorist designation, putting a charitable
19 society on the list, is how the U.S. government alerts the
20 world to the true nature of the organization. And it is also
21 how the Treasury Department cuts organizations off from the
22 U.S. financial system.

23 Before an organization is put on the list, businesses and
24 charities in the United States can deal with it. Only by
25 putting the organization on the list, only by designating the

1 organization as a specially designated terrorist, an SDN, or a
2 foreign terrorist organization, can the government cut it off
3 from the U.S. financial system.

4 All the Government had to do was tell the world it viewed
5 the zakat committees as part of Hamas. It just had to
6 designate them, and it never did. To this very day it hasn't
7 designated them. It designated al-Salah and Interpal and CPSP
8 and Sanabel and al-Aqsa, as you heard during the course of
9 this trial, but to this very day the Treasury Department has
10 not designated a single one of the zakat committees.

11 And it is not like the government didn't know at the time
12 that HLF was sending money to these committees that it was
13 doing so. You have seen the transcript of the Philadelphia
14 meeting back in October of 1993. Mr. Jonas showed you where
15 the participants talked about different charitable committees
16 in the West Bank. The FBI, listened in on that meeting and
17 heard everything. The FBI knew exactly what was being said
18 there.

19 And there is more. The government had all the Ashqar
20 documents in December of 1993. It had wiretaps on HLF's phone
21 24/7. Mr. Yaish told you that the Holy Land confirmed every
22 wire transfer during a telephone call with the issuing bank,
23 and some of the transfers that the FBI heard were the very
24 zakat committees we are talking about in this case.

25 And Agent Burns told you that the wiretaps intercepted

1 faxes, and you have seen some examples of those here. So the
2 FBI had access to all the fund transfer requests being sent by
3 fax to and from the zakat committees with which the Holy Land
4 Foundation worked. In sum, the FBI knew exactly where HLF's
5 money was going and it knew it at the time.

6 And, of course, there is a good reason why the Treasury
7 Department did not put any of these zakat committees or
8 charitable societies on the list, and that is because they are
9 not part of Hamas. They are not controlled by Hamas. How do
10 you know that?

11 Mr. Abington was as credible a witness as you will ever
12 see--a career State Department employee. He is from the
13 government, just like these Prosecutors, and he has no ax to
14 grind. He can't stand Hamas. And after he left his position
15 with the State Department, he did lobbying work for the
16 Palestinian Authority under Fatah. He has no reason to favor
17 the Defense. He wasn't even being paid. And yet he came in
18 here and told you that he did not consider the zakat
19 committees to be part of Hamas or controlled by Hamas, and
20 that no one ever said that they were.

21 So it is no surprise that those zakat committees and
22 those charitable societies named in the indictment aren't on
23 the Treasury list. They aren't there because they aren't part
24 of Hamas, they aren't controlled by Hamas, and they don't act
25 on behalf of Hamas. Mr. Abington told you that. And the

1 Treasury Department told you that by not putting -- never
2 putting a single one of the zakat committees and charitable
3 societies on the SDN list.

4 Now, what did the Government witnesses say about this?
5 How did they explain why the zakat committees aren't on the
6 list? Well, Doctor Levitt and Mr. McBrien gave you three
7 reasons. I will go through them with you quickly. And none
8 of them is consistent with the evidence in this case.

9 The first reason Doctor Levitt and Mr. McBrien gave you
10 for not designating the zakat committees is that there aren't
11 enough hours in the day to designate as a terrorist everyone
12 who needs to be designated. Does that make sense to you.

13 Take a look at Defense Exhibit No. 963, which is the June
14 29th, 2001 specially designated nationals list, and also OFAC
15 No. 1, the Government's exhibit, which is the list of
16 designated terrorist organizations. They are both thick.
17 They contain many, many names of groups and individuals.

18 There are some big names on there, of course, like Hamas
19 and Sheikh Yassin, but there are all kinds of people and
20 organizations and companies that no one has ever heard about.
21 So don't you think if these zakat committees were controlled
22 by Hamas, if they were part of this Hamas social wing, as the
23 Government claims, that providing charity through these zakat
24 committees created orphans and widows, as Mr. Jonas argued in
25 his closing, don't you think if they were such a threat to

1 national security that the Treasury Department could have
2 found the time to designate even just one of them in the
3 entire time of this case, as they did with the al-Salah
4 Society in 2007?

5 Doctor's Levitt's second explanation for why those
6 committees aren't on the list is just as weak as the first.
7 He said that the government sometimes doesn't designate a
8 person or an organization for strategic reasons to avoid
9 interfering with an investigation, which means that the
10 government, at least the FBI, sometimes tries to manipulate
11 the designation process to help it prosecute somebody.

12 And we saw Agent Miranda do that. He admitted on cross
13 examination that in March 2002 he asked his fellow agent in
14 Washington to try to get Khalid Mishal, Sheikh Jamil Hamami,
15 and some other people designated to assist in bringing cases
16 against the HLF and InfoCom. And sure enough, the Treasury
17 Department designated Mr. Mishal in August of 2003. And in
18 his trial you heard Agent Miranda refer to him and to Mousa
19 Abu Marzook as specially designated terrorists.

20 So we know that the FBI tries to manipulate the terrorist
21 designation process to help it prosecute people, but does that
22 explain why the zakat committees are not on the list? No. I
23 mean, it might explain why the government left the zakat
24 committees off the list before Holy Land closed. As unfair as
25 it may seem, the FBI might have wanted to lull the Holy Land

1 Foundation into continuing to do business so it could
2 prosecute the charity and its officers later.

3 But why wouldn't the Treasury Department put the zakat
4 committees on the list after HLF closed? Imagine how much
5 stronger the Government's case would be if they could refer
6 the Ramallah zakat committee, for example, a specially
7 designated terrorist, or the Ramallah zakat committee.

8 But the Treasury Department never designated a single one
9 of these zakat committees, despite the benefits for the
10 Government's case, and there is only one explanation for that,
11 and that is that it did not have the factual basis to
12 designate them. It does not have the evidence to designate
13 the zakat committees and charitable societies as terrorists.

14 Remember Mr. McBrien's testimony. All it takes is a
15 reasonable belief for the Treasury Department to designate an
16 organization as a terrorist; not proof beyond a reasonable
17 doubt, which is what you must find here; not even proof by a
18 preponderance of the evidence, which is the standard in civil
19 case. All the Treasury Department needs to designate an
20 organization is a reasonable belief, and it couldn't meet that
21 standard for a single one of the zakat committees and
22 charitable organizations named in this indictment.

23 So the Government's first two reasons don't make any
24 sense, and the same is true of the Government's third reason.
25 Doctor Levitt said and Mr. McBrien echoed him that there is no

1 reason to designate them separately because they were already
2 included in the designation of Hamas.

3 Here is the logic. Hamas has been designated. The zakat
4 committees are part of Hamas. Therefore, the zakat committees
5 have been designated, even if their names don't appear
6 anywhere on the list. But there are two very big holes in
7 that argument.

8 The first one is, as I noted earlier, the Treasury
9 Department has designated a whole bunch of organizations that
10 it claims are part of Hamas. They designated Interpal, CBSP,
11 Sanabel, al-Aqsa, al-Salah, and others. If all those
12 organizations were part of Hamas, why did the Treasury
13 Department designate them? They didn't need to? They were
14 already designated. According to the Government's theory,
15 they were part of Hamas and Hamas was designated.

16 But the Treasury Department designated these
17 organizations separately because that is how it tells American
18 corporations and charities and individuals they can't do
19 business with those organizations. And to this day the
20 Treasury Department has never designated the zakat committees.

21 The other big hole and that everything is included in the
22 Hamas designation argument is the language of Executive Order
23 12947 itself. The executive order talks about how an
24 organization gets put on the list. And one of those ways is
25 if the Secretary of the Treasury, with the Attorney General

1 and the Secretary of State, determines an organization is
2 owned or controlled by, or acts for or on behalf of a
3 designated organization like Hamas. That is available to you
4 as InfoCom Search No. 37.

5 A reasonable person reading that part of the executive
6 order would think that if Hamas gets designated, the Treasury
7 Department will then use this part of the executive order to
8 designate and put on the list all of the other organizations
9 that it finds are controlled by Hamas or acts on behalf of
10 Hamas. That is how it will alert the world to their true
11 nature and cut them off from the U.S. financial system and
12 criminalize American donations to those organizations.

13 So the Government is just plain wrong when it tells you
14 that designating Hamas is the same thing as designating the
15 zakat committees or the charitable societies that it
16 supposedly controls. It just is not.

17 Now, I am coming to the end of my time, and I want to
18 return to the heart of this case, which is the work that
19 Shukri and the Holy Land Foundation did.

20 Let's look at what the Foundation did in one year as
21 reported in the Foundation's annual report for 1997. This is
22 Defense Exhibit No. 865.

23 In 1997 the Holy Land Foundation provided a \$50 monthly
24 stipend to over 2,000 children in the refugee camps in Gaza, the
25 West Bank, Lebanon, and Jordan. It also provided these and

1 other children with healthcare, summer programs, educational
2 supplies, and even holiday gifts. And the Foundation
3 organized educational events and field trips to historic sites
4 and museums to help them learn and grow.

5 The Foundation also provided scholarships to high school
6 students and university students to help them continue their
7 educations, and hopefully improve the economic futures of not
8 only their own families, but also of Palestine itself. As
9 stated in the annual report, a complete education is a
10 significant pathway towards a bright and successful future.

11 In cooperation with another American charity, in 1997 the
12 Foundation delivered over \$900,000 worth of new clothes to
13 needy families, and shipped over \$1.6 million in medical
14 supplies to refugee camps in Lebanon and Jordan, and it funded
15 several hospitals, including two you have heard about in this
16 case--the Dar Salem Hospital in Gaza and the el-Razi Hospital
17 in Jenin.

18 It also brought children suffering from extreme medical
19 conditions to the United States for medical treatment they
20 could never receive in their home countries.

21 And it provided desperately needed and essential
22 municipal services to refugee camps and poor communities. For
23 example, the Foundation funded a water pump system in Lebanon
24 and funded a youth center in the West Bank.

25 In addition, it funded several social service projects,

1 including a project aimed at ending domestic violence.

2 And as it did every year, and as you heard throughout
3 this case, the Holy Land Foundation provided food packages for
4 needy families during major Muslim holidays such as Ramadan.

5 And in 1997 here in the United States, the Foundation
6 reached out to the community through the public service
7 announcements we talked about earlier, and through those
8 community meetings to end up bridging the gap between the
9 Muslim community here and community leaders and activists.
10 The Foundation also sponsored a scholarship program for local
11 minority students.

12 Now, the annual report provides just a quick glimpse of
13 the work Holy Land did, but it is an important glimpse. And I
14 encourage you to read Defense Exhibit No. 865, as well as Holy
15 Land's annual report for 2000, which is Defense Exhibit No.
16 67, to get a fuller sense of the Holy Land Foundation's work.
17 These publications include Shukri's words and they demonstrate
18 his intent in this case.

19 1997 was also the year that Edward Abington ended his
20 service as Consul General in Jerusalem, and he told you about
21 his on-the-ground experience with zakat committees and charity
22 associations named in the indictment during this time and even
23 later when he worked with the Palestinian national authority
24 from 1999 to 2006. And he testified under oath that he was
25 never told by anyone in the United States government or by

1 anyone in the West Bank or Gaza that those committees were
2 operated on behalf or under control of Hamas. He was never
3 told that because they were not.

4 And you must consider his testimony, both when you
5 consider whether the charity and aid that the Holy Land
6 Foundation delivered through the zakat committees were
7 delivered for the benefit of Hamas, whether those zakat
8 committees were in fact controlled by or operating on behalf
9 of Hamas, and also whether Shukri knew that they were, which
10 is another element that the Government is required to prove to
11 you.

12 And one more point, and this is important. If you find
13 Shukri not guilty of providing material support to Hamas,
14 which we trust you will when you consider all of the evidence
15 in this case, you must find him not guilty on the tax and
16 money laundering counts as well, because those charges all
17 rely on the same theory.

18 I have tried to cover as much as I can with you today,
19 and I have asked you please don't make up your mind tonight.
20 The other Defense counsel will get up tomorrow morning and
21 tell you and talk to you about different areas or aspects of
22 the case. And they will talk about some things I didn't have
23 time to cover today.

24 And after all the Defense arguments Mr. Jacks gets to
25 speak to you one more time. And the Government gets the last

1 word because, as Judge Solis explained to you, it is their
2 burden to prove their case beyond a reasonable doubt. And if
3 Mr. Jacks says something is wrong, something that you know the
4 documents do not say or support, I will not be able to correct
5 him. So I ask you to please be my eyes and ears in the jury
6 room and to make sure no one is persuaded by something that is
7 not in the evidence that you saw.

8 And most importantly, look at the documents in this case
9 carefully and decide for yourselves what they mean, if
10 anything. Carefully consider who says what and when they said
11 it. Context and dates are very, very important in this case.

12 Ladies and gentlemen you have been very patient with me,
13 and I appreciate it. I know that it is the end of the day and
14 we are all tired. I thank you for your service.

15 The burden of proof beyond a reasonable doubt is very,
16 very high, and it is a burden that remains on the Government,
17 it remains right there with these Prosecutors. That is where
18 it is now, that is where it has been, and that is where it
19 remains. And it remains with them to prove each and every
20 element of this case beyond a reasonable doubt.

21 And you know where the doubts are in this case. I have
22 tried to show you one -- some of them, and the other Defense
23 counsel will show you others.

24 I am asking you to focus on the proof and the doubts that
25 you know exist. Don't permit Mr. Jacks when he stands up to

1 wrap himself up in the American flag and appeal to your
2 emotions, or to persuade you with violence that is unrelated
3 to the Holy Land Foundation and its work.

4 You have to wrap yourselves in the American flag and in
5 our U.S. Constitution. You have to make certain that this
6 trial is decided fairly and on the evidence that has been
7 presented in the case, on the facts and not just selective
8 facts.

9 If anything, one thing makes you hesitate about the
10 Prosecution's evidence, that is all the doubt you need to find
11 Shukri not guilty, because it will be a doubt for which you
12 have a reason. Make is sure, please, that in the private
13 place where you go to make the most personal and important
14 decisions in your life, make sure the Prosecution has removed
15 every single reasonable doubt that you have.

16 You don't have to explain or justify your doubt, and no
17 one should try to talk you out of it. If you have a
18 reasonable doubt, even if you can't put it into words, then
19 the law requires you to hold onto it and let that be your
20 verdict.

21 The American justice system is what sets us apart from
22 other countries. It is one of the principles for which Shukri
23 expressed his gratitude to be an American during his telephone
24 call with Ghassan Elashi. It is the foundation on which this
25 country was created and what we all hold so dear.

1 Your part, holding the Prosecution to that high, high
2 burden, is the most important part in the criminal justice
3 system, because it gives all of us the assurance that no one
4 will be convicted of a crime just because the Government wants
5 to see that happen.

6 I know, ladies and gentlemen, that you have all listened
7 carefully, and I have appreciated that you all took so many
8 notes as you have considered the evidence in this case. And
9 Ms. Hollander and I thank you for that, and Shukri Abu Baker,
10 he thanks you for that.

11 I know you will weigh the evidence carefully in this
12 case, and I know that after you do you will come to the only
13 conclusion that is just, and the only conclusion that is fair
14 and the only conclusion that uphold it is American justice
15 system, and that is to find Shukri Abu Baker not guilty of all
16 charges in this case.

17 Thank you so much.

18 THE COURT: Thank you.

19 Members of the jury, we will go ahead and finish here for
20 today. We will come back tomorrow and you will hear from the
21 remaining Defendants, and then you will hear from Mr. Jacks.
22 And to correct perhaps a misimpression, both sides have equal
23 amount of argument here. You will hear from all the Defense
24 attorneys, and everybody is going to have an equal amount of
25 time.

6 | (Whereupon, the jury left the courtroom.)

9 MR. JONAS: How much time do we have left?

13 MR. DRATEL: I just want to make an application. I
14 want to move for a mistrial based on Mr. Jonas' opening based
15 that -- particularly the first half hour that concentrated on
16 violence unrelated to the Defendants. This is again going to
17 the *al-Moayad* factors. And talking about a living will, which
18 is exactly the kind of thing that was at issue with *al-Moayad*.
19 I don't know if there is a living will in this case that is in
20 evidence. But the point being, that I think that exacerbated,
21 aggravated all the prejudicial impact of that --

24	(End of day.)
----	---------------

1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts

06/29/2009

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
13
14
15
16
17
18
19
20
21
22
23
24
25